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ABSTRACT

This manual contains current legal requirements and information on school building construction and inspection in the state of Utah. Major topics include facilities long-range planning; the role and responsibilities of the School District Building Official; school site issues such as size and location, impact, and acquisition and development; as well as coordination with the local municipality and county. Also provided are plan development issues such as educational specifications; life-cycle costing; the structural, energy, Fire Marshal and State Office of Education plan review; the construction bidding process; the construction inspection process; and maintenance and operation of buildings after construction. Included are related laws and administrative rules, a list of additional construction related resources, and appendices which may be helpful to school district facilities development and operations managers in Utah's 40 school districts. (GR)

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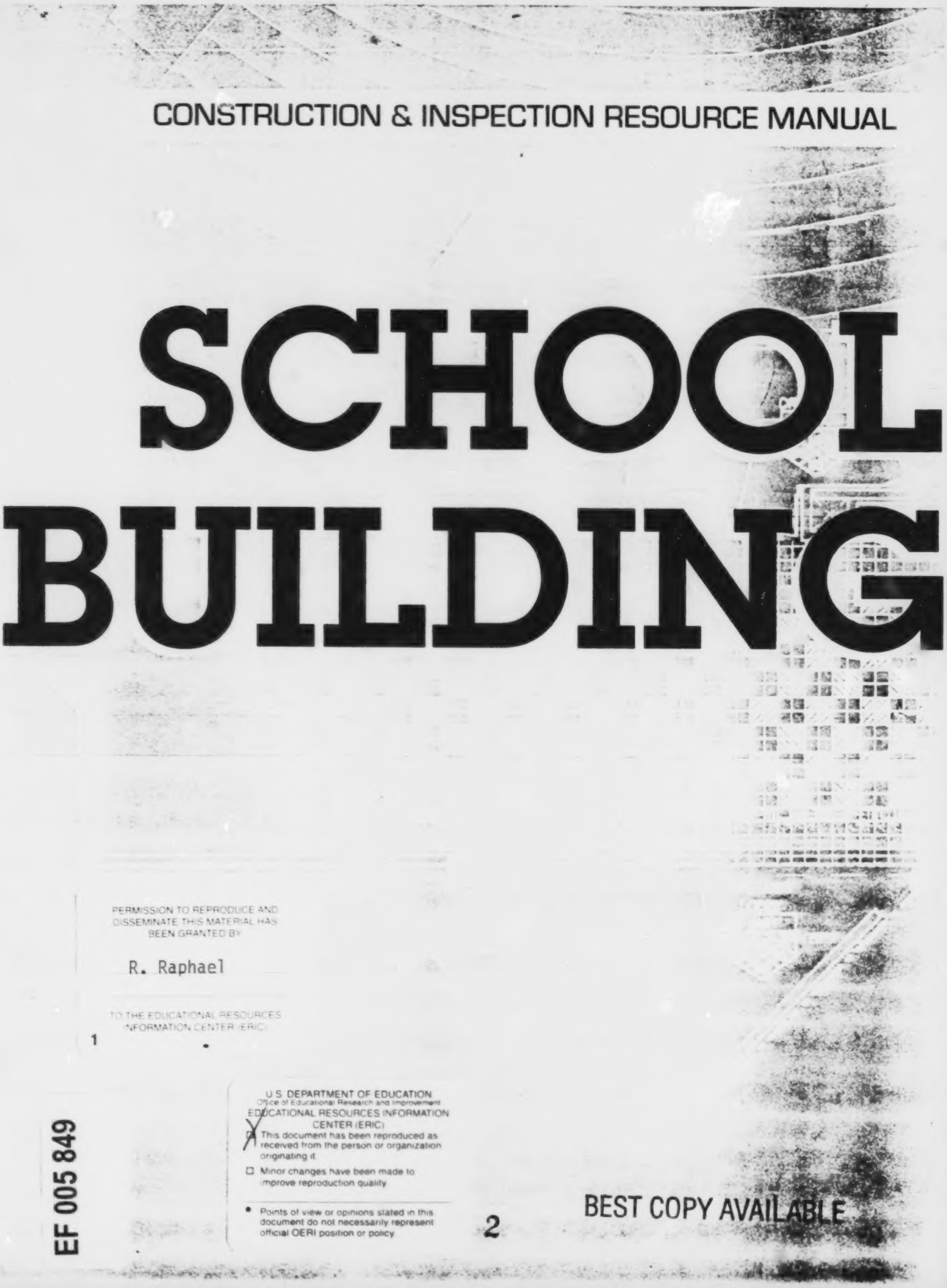

CONSTRUCTION & INSPECTION RESOURCE MANUAL

SCHOOL BUILDING

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School Building Construction and Inspection Resource Manual

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Utah State Board of Education
Utah State Board for
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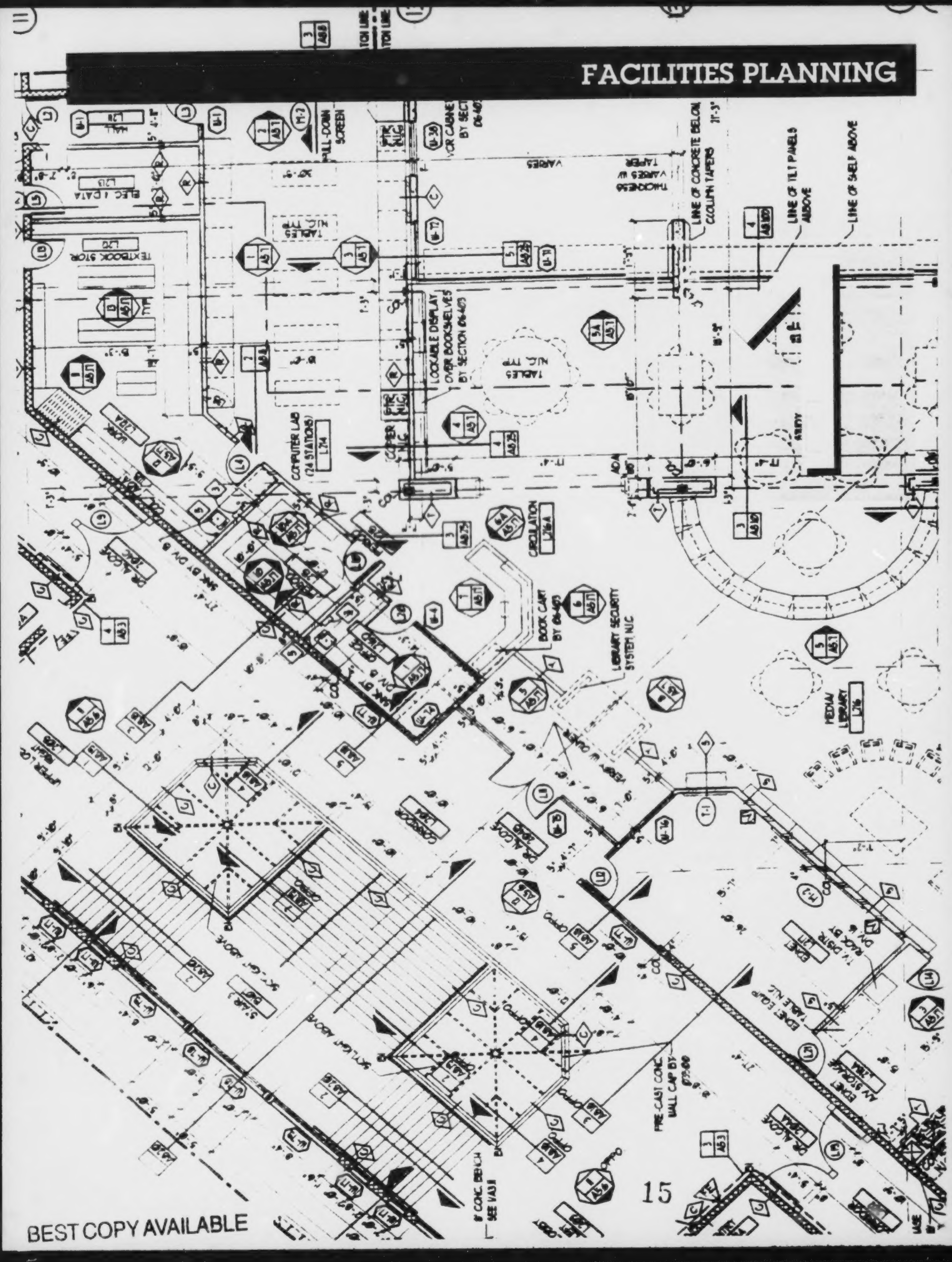
Foreword

This School Building Construction and Inspection Resource Manual is published annually by the Utah State Board of Education by authority of 53A-20-104.5 [http://www.usoe.k12.ut.us/lawsites.htm] (S.B. 68, 1999 General Utah State Legislature). The manual contains current legal requirements and information on school building construction and inspections.

Major topics include facilities long-range planning; the role and responsibilities of the School District Building Official (SDBO); school site issues such as size and location, pupil transportation into and away from the school, geologic hazards, environmental impact, and acquisition and development, as well as coordination with the local municipality and county; plan development issues such as educational specifications, selection of architects/ engineers, facility design, and plan reviews; value engineering and life-cycle costing, as well as structural, energy, fire marshal and State Office of Education plan review; the construction bidding process; the construction inspection process; and maintenance and operation of buildings after construction. Also included are related laws and administrative rules, a list of additional construction-related resources, and appendices which may be helpful to school district facilities development and operations managers in Utah's forty school districts.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1. Facilities Planning

Educational facilities are often regarded as educational tools designed to facilitate, promote, and stimulate the educational program. Actually, educational facilities sometimes possess physical characteristics that impose severe restrictions on the educational program. Inadequate or unsuitable instructional facilities can reshape, limit, or modify the school curriculum beyond tolerable limits. Consequently, school boards and administrative leaders must clearly envision the complete educational task to be accomplished before any long-range program is developed.

School districts planning for new buildings must deal with complex issues and needs—inflation, energy conservation, extending the use of school facilities as a community resource, providing appropriate technology to the classroom, modernizing and extending the life of existing facilities, designing to avoid vandalism, providing flexibility to allow for appropriate responses to future unknown needs, providing for students and other individuals with disabilities, etc. At the same time, the problems of planning and designing economical buildings to construct and to operate for the best possible support of the educational program remains paramount.

a. The Importance of Planning

The greater the challenge, the more important prudent planning becomes to an effective school building program. Well-designed, functional educational facilities where they are needed, and available for use when they are needed, are an essential support to an effective educational program. Such educational facilities designed for high benefit-cost ratio are essential to a cost-effective educational system.

Such buildings and such districtwide building programs don't just happen; both must be well planned. Planning for the *total district building program* and planning for the *individual school*, if done well, are difficult, time-consuming activities which can tax the talents and energies of a large number of people, but the returns are more than worth it. The greatest assurance of long-range, districtwide economy in school construction can be achieved only when each school plant is considered as a step in carrying out a previously developed, long-range master plan of school facility needs.

The responsibility for the planning process rests with the school board and school district administration. It is not uncommon for educators to blame the architect or engineer for deficiencies in a particular building; however, more often than not, such deficiencies can be traced directly to a lack of educational planning. Most poorly designed school facilities result from poorly conceived and incomplete education specifications or from the educator abdicating the responsibility to the design architect.

b. Long-Range Planning

A long-range planning process provides a comprehensive, districtwide plan for the orderly replacement of buildings and the addition of buildings to accommodate growth. A districtwide plan may be projected over many years; however, a minimum plan should encompass the five years of the district's Comprehensive Capital Outlay Plan required by Utah Administrative Code (UAC) R277-452 "Procedures for Filing Comprehensive Capital Outlay Plan." This plan includes current utilization of educational facilities in compliance with the 70 percent utilization requirements of Utah Code (UC) 53A-17a-142, projected school enrollments, school building needs, support building needs, sites, and fiscal projections for the five-year period. The Comprehensive Capital Outlay Plan must be submitted by November 1 of the year it is due. The last plan was submitted by each school district in 1995; the next five-year comprehensive plan is due November 1, 2000. The State Office of Education has published a Per Student Space Criteria as a general guideline for school districts to follow when planning overall size of a facility. See Appendix AA on page 11-28 of this manual.

(1) Planning Philosophy

The planning document should include a statement which delineates area-community aspirations and education goals. These goals and aspirations form the basis of a sound philosophy from which logical decisions are made in education planning.

(a) Community Aspirations and Goals

A study should be made to review the area's history, traditions, socioeconomic conditions, and projections for the future in terms of interests and willingness to pay for new facilities. Needs assessments and other survey instruments may well be used to determine local thinking and ambitions. Regional and community master plans and zoning requirements lend a great deal of insight to the observer in terms of the area's interests and potential. In addition, close coordination with county, city and Utah Department of Transportation officials is essential to be sure the school district's master plan will appropriately match the community's long-term plans. See Appendix AK for Design Principles for Developing Schools as Centers of Community.

(b) Education Goals

The lifestyle of a community will reflect an affinity to certain subject areas and vocations, such as the arts, sciences, applied technology education, or perhaps languages. A determination should be made regarding the intensity of desire by parents for the education of their children and the types of subjects they expect. It is also helpful to know parents' attitudes toward such things as educational experimentation, innovation, traditionalism, and discipline. Knowledge concerning these items should determine the distribution of staff, space, and financial support in school facility construction and utilization.

(c) Identify the Most Suitable Grade Organization

There may be several solutions regarding grade organization and attendance areas in a school district, depending on the character of the educational program, distribution of pupil homes, and the capacity, location, and use of existing schools. Any grade organization should be carefully considered in terms of educational, psychological, and operational factors. The fact that a given grade organization works well in one school district is no guarantee that it will work or even be applicable to any other. To some degree, the capacity, location, and type of available facilities will favor one grade organization over another, but the focus should be primarily on the educational soundness of the plan, rather than simply on providing space for student desks. The recommended grade organization should help to provide high-quality education and effective utilization of present facilities with a minimum of student inconvenience.

(d) Long-Term Economy

A good long-range plan is geared to long-term economy in capital outlay, maintenance, and operation. Such a plan provides maximum space utilization and keeps costs of operation, maintenance, transportation, supervision, and administration to a minimum. Buildings with high maintenance cost per pupil should be scheduled for abandonment or renovation. Schools that are too small to offer a broad program of modern instruction should not be continued in operation except on an emergency basis.

(e) Flexibility

Any long-range plan must provide for the foreseeable as well as provide allowances for the unforeseeable. The plan should be devised so as to leave as many alternatives as possible open to future boards of education. For example, if a board of education has a choice for providing two high educational facilities or one, it would be far more advantageous from the standpoint of future planning and community growth to include two high schools in the long-range plan. The flexibility of such a plan is quite clear. Any future board of education could add to one or both schools; in the event of an enrollment downturn, could eliminate one high school before it is built; or in the event of a large growth pattern in a given area, could simply plan a third unit and still remain in balance in the size of the high schools in the district.

(2) Enrollments

School enrollment and projections are critical elements of long-range facility planning. Student populations usually grow and decline within a predictable cyclical range. Utilizing historical trends, demographic and economic data, state and local agencies and private entities can assist school district planners in making large or small-area projections. These may include the Governor's Office of Planning and Budget [http://www.governor.state.ut.us/gopb/default.html], utility companies [http://www.pacificorp.com/][http://www.questarcorp.com/], Utah Association of Realtors [http://www.utahrealtors.com/index.htm], Associations of Local Governments [Southeast--

http://seualgnet.seualg.dst.ut.us/] [Bear River--http://www.brag.dst.ut.us/], and the State Office of Education [http://www.usoe.k12.ut.us/].

(3) Survey of Existing School Facilities

A thorough knowledge of existing school plants is necessary for effective planning. Facilities should be surveyed for educational adequacy, physical condition, life-cycle cost projections, possible temporary housing, and plans for orderly replacement.

(a) Educational Adequacy

Several items need to be checked when considering educational adequacy for the future. Is the site large enough for the educational program? Are special facilities needed to house unique local programs? Does the school district have objectives and plans to provide needed facilities for students with disabilities? Do the buildings have adequate capacity for future growth? Do buildings have flexibility to respond to change in space demands?

(b) Building Physical Condition Evaluation

To some degree, the continued use of educational facilities depends on the soundness of the physical structure. Soundness depends, in part, on the age of the building. A building also should have the proper life safety remodeling to ensure continued use. The flexibility of buildings in terms of expandability, renovation, and modifications should also be determined.

(c) Temporary Housing

In some school districts, a peak enrollment period will be predicted, will in fact occur, and then an enrollment decline will follow. In other districts, growth may be so rapid that permanent construction does not keep pace with school housing needs. These circumstances may warrant using temporary classrooms—relocatables—just before the peak is achieved or while new facilities are being planned to effect the most economical solution to such problems.

(d) Orderly Replacement of Facilities

Long-range planning should provide for the orderly replacement of all school facilities over a period of 50 to 75 years. General obligation bonding or use of capital outlay reserve funds are methods which may be used to accomplish this task.

(4) Fiscal Ability Projections

A long-range building program should be geared to the financial ability of the school district. It should be realistic and practical from the standpoint of public acceptance but should not compromise desirable goals and sound educational principles. Fortunately, most Utahns are willing to support good education if they are fully informed of current needs and the soundness of proposed methods of meeting the needs.

For school districts to make accurate forecasts of their capital outlay financial abilities, it is necessary to project assessed valuations, bonding ability, reserve fund potential, debt service, and estimated state and other building aid. These components, together with the statutes and administrative rules, provide the basis of projections regarding the financial ability of a school district.

(5) District Advisory Committees

The formation of a representative districtwide advisory committee, together with community advisory committees, to assist in long-range planning can be a positive reinforcement for an effective school building program. Committee members should include parents, community leaders, and others interested in long-range facility planning. If the working parameters of such a committee are carefully defined, their recommendations will be of great assistance to the district administration and local board of education in formulating long-range plans.

(6) Priority of Building Projects

One part of each school district's five-year Comprehensive Capital Outlay Plan is the list, in order of priority, of all identified construction needs. The district administration and local school board should establish priority criteria. Three desirable features of this method of projection are:

- The inclusion of all additions, remodeling and new construction.
- The time sequence proposed for completion of all projects.
- The estimated costs.

As conditions change within a school district, the priority of building construction needs will require some revision. Evaluation and updating of the priority criteria as well as the specific building priority ratings should be completed at regular intervals.

SCHOOL DISTRICT BUILDING OFFICIAL

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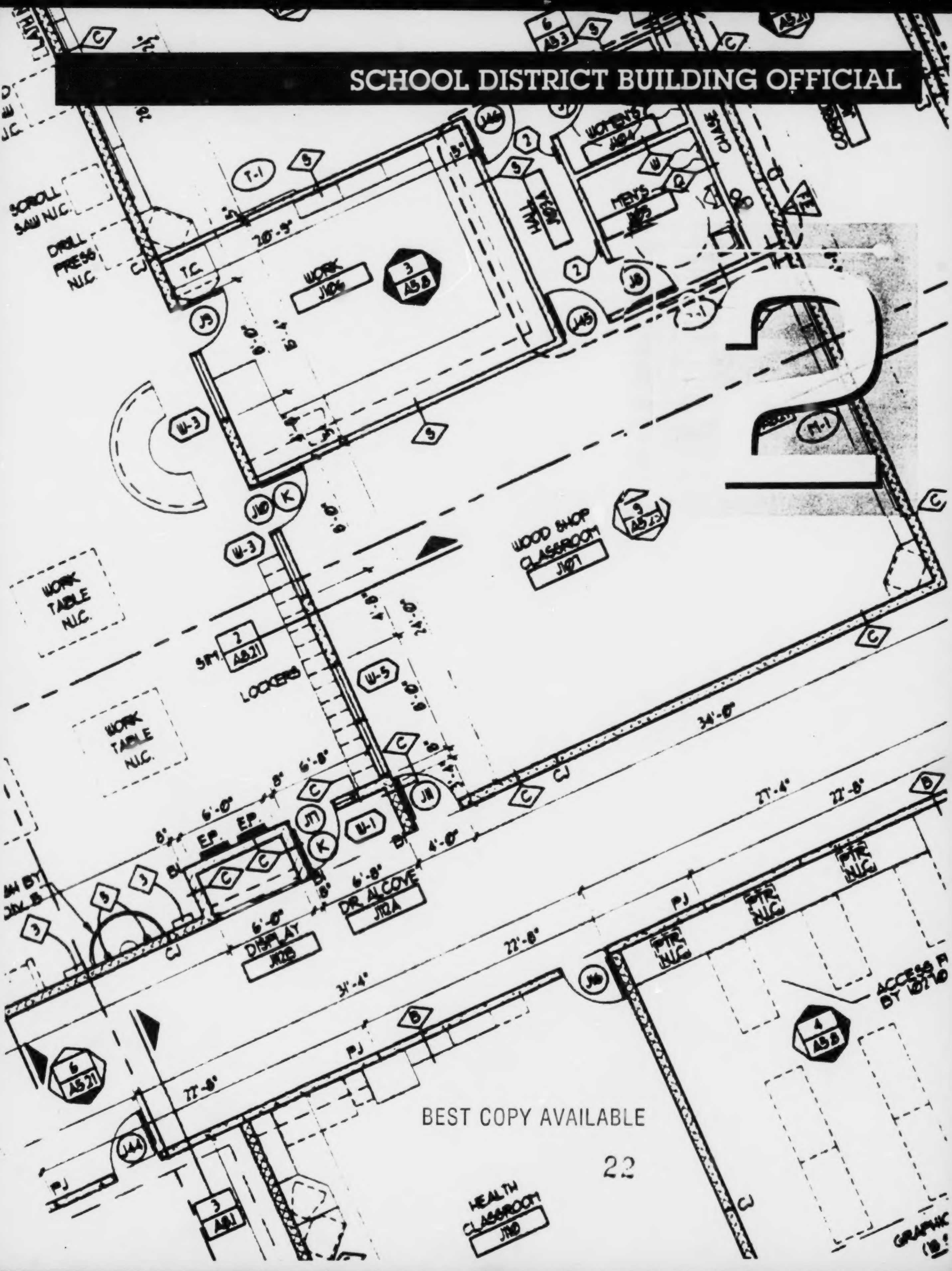
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DRILL PRESS N.I.C.
T.C.
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3
A5.8
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J103A
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WOOD SHOP CLASSROOM
J107
9
A5.23
WORK TABLE N.I.C.
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2
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W-1
DR. ALCOVE
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DISPLAY
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2. School District Building Official

a. Selection and Role

Under provisions established within the state-adopted building code (58-56-4, see Section 9, Subsection w. of this manual)[1] [http://www.usoe.k12.ut.us/lawsites.htm], each Utah school district is established as a code enforcement agency for school construction within its jurisdiction. As a code enforcement agency, a school district is required to appoint a School District Building Official (SDBO) who has direct administrative and operational control of all construction or renovation in the school district. This SDBO is authorized and directed to enforce all provisions of the building code and does not have authority to override the code. The SDBO is also responsible for coordinating with local municipalities and the Utah State Office of Education (USOE) to ensure that the appropriate documents are filed in a timely manner for all construction projects exceeding $100,000 in value. See Appendix AN for a current list of School District Building Officials.

In accordance with school district administrative procedures, and with the approval of the school board, school districts may appoint such technical officers, inspectors, and other employees as shall be authorized from time to time[2]. All ICBO (International Conference of Building Officials)-certified and Utah state licensed inspectors inspecting school district projects must be Class I licensed (large commercial) for the category(s) for which they are licensed to inspect. The School District Building Official (SDBO) may deputize such inspectors or employees as may be necessary to carry out the functions of the school district as the code enforcement agency.

b. Coordination

Because school district construction can have a significant impact on such things as truck, automobile and school bus traffic movement patterns, the location of utilities and other infrastructure components supporting schools, and zoning ordinances within a community or neighborhood, it is important that school district personnel coordinate with city and county planners and policy makers. In addition, school district personnel are required to submit periodic reports to the USOE and local city or county building officials regarding the status of new construction and addition/remodel projects.

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[1] 1997 Uniform Building Code, Volume One, Chapter 1: Administration, Section 104—Organization and Enforcement, 104.1: Creation of Enforcement Agency and 104.2.1: General, page 1-1. [http://www.icbo.org/]

[2] A list of state licensed building inspectors—provided by the Utah Department of Commerce, Division of Occupational and Professional Licensing—appears in Appendix A. NOTE: All ICBO (International Conference of Building Officials)-certified and Utah state licensed inspectors inspecting school district projects must be Class I licensed (large commercial) for the category(s) for which they are licensed to inspect [http://www.commerce.state.ut.us/web/commerce/dopl/current/5607.htm].

(1) Monthly Construction Inspection Summary Reports

School districts are required to report monthly on all construction inspections completed on projects exceeding $100,000 in value and assigned a project number by the State Office of Education. Using Form SP-8, Construction Inspection Summary Report (see Appendix B), school districts submit the reports to the local municipality and USOE no later than the 15th of each month for the preceding month's activities. The school district should keep copies of all individual inspections at an identified location in the district for auditing and follow-up purposes.

(2) Final Inspection Certification

School districts complete and file a Form SP-9, Final Inspection Certification form (see Appendix C), with the State Office of Education and the local municipality so that both agencies know that the building is available for occupancy. The Final Inspection Certification form is submitted after all inspections are completed and the work is accepted in accordance with state-adopted building codes. The form lists the monthly total number of inspections in each of the identified areas as well as the name, state license number and discipline(s) of the state licensed/certified inspectors performing the inspections. The School District Building Official (SDBO) also signs the Final Inspection Certification form, certifying that all inspections were completed in accordance with the state-adopted building code.

(3) Certificate of Occupancy

A final Certificate of Occupancy, Form SP-10 (see Appendix D), is signed by the School District Building Official (SDBO) after all inspections are completed and reported, thus certifying that final inspections have been completed, the work has been accepted in accordance with the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual), and the building is ready for occupancy. The Certificate of Occupancy will be posted in an appropriate conspicuous place within the building.

c. Responsibilities

All construction or renovation of buildings which a school district owns or has assumed responsibility for and for which the school district authorizes work shall be subject to inspection by or under the administrative and direct operational control of the local School District Building Official (SDBO). All such construction work shall remain accessible and exposed for inspection purposes until approved by a building inspector appropriately state licensed and certified under provisions of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). In addition, certain continuous inspections, as well as structural tests and inspections, are required as indicated in Section 6 of this manual.

(1) Inspection Records

No construction or renovation work shall be commenced until the school district has posted or otherwise made available an inspection record form[3] such as to allow the building inspector to conveniently make the required entries regarding inspection of the work. This form shall be maintained and made available by the school district until final approval has been granted by the SDBO.

(2) Inspection Requests

It shall be the duty of the person doing the work authorized by the school district to notify the School District Building Official (SDBO) that such work is ready for inspection. The SDBO may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, facsimile transmission, electronic mail transmission, or by telephone at the option of the SDBO.

It shall be the duty of the person requesting any inspections required by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) to provide access to and means for inspection of such work.

(3) Approval Required

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building inspector. The inspector, upon notification, shall make the requested inspections and shall either indicate that the inspected portion of the construction is satisfactory as completed, or shall notify the School District Building Official (SDBO) that the inspected portion fails to meet the standards of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). Any portions that do not meet the standards shall be corrected and such portion shall not be covered or concealed until approved by the inspector.

There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

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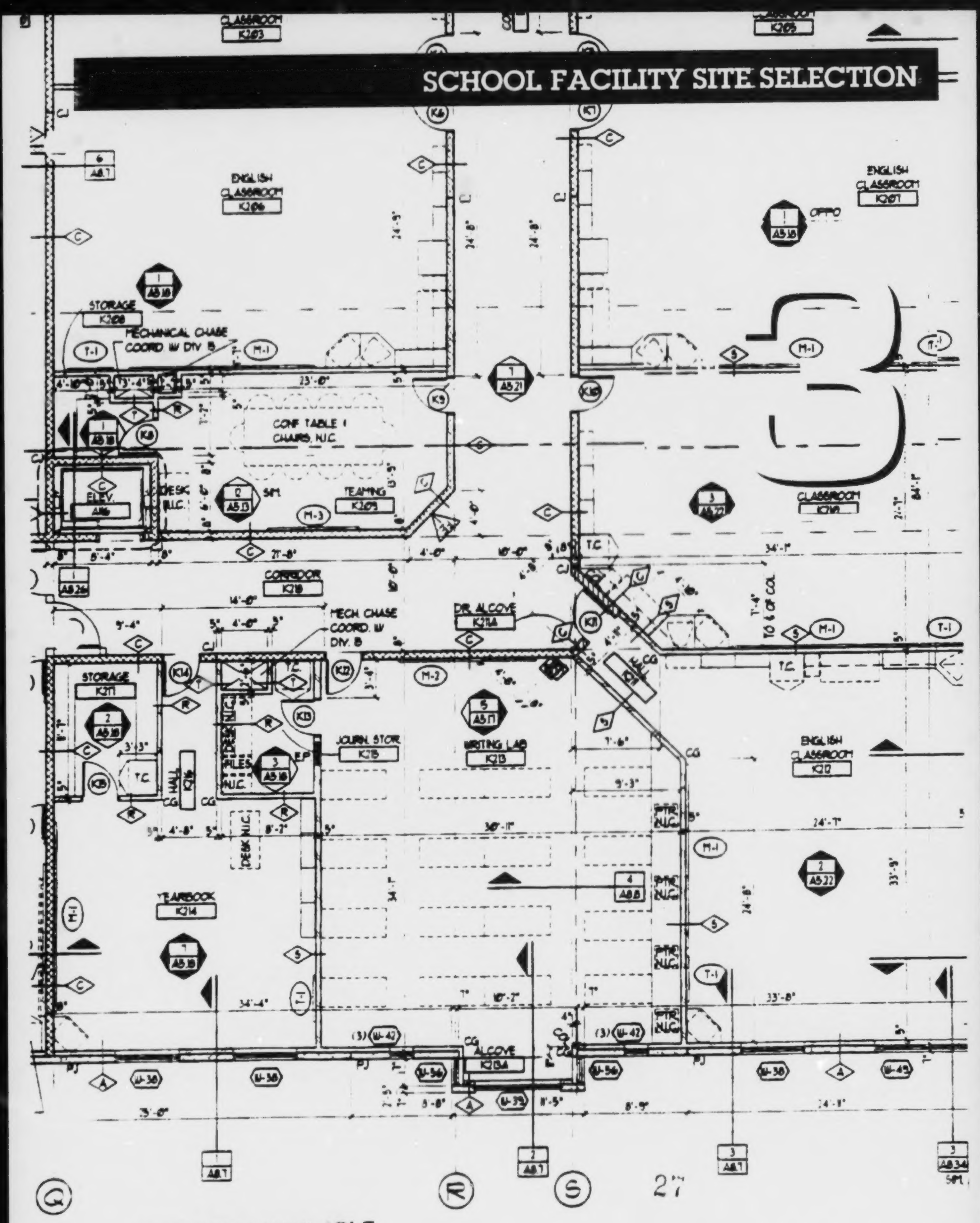
[3] Example building inspection record forms appear in Appendix E.


CLASSROOM
K203
K205
ENGLISH
CLASSROOM
K206
ENGLISH
CLASSROOM
K207
STORAGE
K208
MECHANICAL CHASE
COORD W DIV B
CONF TABLE &
CHAIRS, N.I.C.
DESK
N.I.C.
ELEV.
TEAMING
K209
CLASSROOM
K210
CORRIDOR
K215
DR. ALCOVE
K211A
MECH CHASE
COORD. W
DIV. B
STORAGE
K217
JOURN. STOR
K215
WRITING LAB
K213
ENGLISH
CLASSROOM
K212
FILES
N.I.C.
HALL
DESK N.I.C.
YEARBOOK
K214
ALCOVE
K213A
BTR
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23'-0"
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34'-4"
30'-11"
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3. School Facility Site Selection

The school is an integral and inseparable part of a neighborhood or community. The selection and development of an appropriate school site should first consider school district population projections and potential school growth scenarios, then proceed with coordination efforts between the school district and the local city and/or county, the Utah Department of Transportation, and local utility providers. Other site considerations should include a complete geologic hazards and soils report, as well as a Level One Environmental Impact Statement for potential sites. A properly located and developed school site can be an aesthetic, functional asset to a community for a great number of years. The purpose of this section is to stimulate the best possible selection of school sites in view of present and future school district needs.

a. Long Term Planning

As the population of the state continues to grow, the need for educational services and facilities generally also increases in like proportion. Some school districts in Utah are experiencing accelerated growth spurts, others have regular steady growth, and a few districts are experiencing a slight decline. Three basic problems are sometimes accentuated in areas of high growth: (1) the competition for acquisition of undeveloped land increases, (2) capital outlay for new service facilities may cause an increase in capital outlay, voted capital and/or debt service property tax rates and (3) the initial costs to open and operate new schools for the first one to three years can strain a school district maintenance and operations budget. These three problems provide an incentive for proper long-term planning that involves school district, city, county, utility and transportation planners of school sites, facilities and services.

The local board of education and school district administration are responsible for the selection of school facility sites, preferably well ahead of actual needs. *When* a school facility site will be needed and *where* it should be located can often be determined with reasonable accuracy by checking indicators such as population trends, commercial development and residential construction and permits for construction. Additionally, some school districts purchase land as an investment to hedge against future price increases whether or not the land is actually used for an educational facility.

The best possible enrollment estimates need to be projected for the number of students to be served in the entire school district. There are many sources of data that may be used for enrollment projections:

- State Office of Education.
- Local telephone, power and fuel supply company studies which project population and service supply needs.
- Regional, county, city and community master plans.
- Real estate agency population and land value histories and projections.

- Local redevelopment agency residential and commercial development volume and timing.

b. Size and Location

Although increasing rapidly in cost, land is still one of the least expensive education resources provided for schools. The quantity of land needed for a school facility will vary according to specific local needs, such as the number and ages of pupils, the type of building to be constructed, and the multiple use of the site for such things as community recreational functions. The size of a school site also depends on the shape, contour, general suitability, and availability of land in the area where the building is to be located. If transportation is readily available, the *size* of a site is more important than location. Inadequate site size is a major factor in the obsolescence of educational facilities.

The State Office of Education suggests the following site sizes for the various grade levels shown:

K-6 School	10 acres plus one acre for each 100 students
Middle School	20 acres plus one acre for each 100 students
Junior High School	20 acres plus one acre for each 100 students
Senior High School	30 acres plus one acre for each 100 students
Combined 7-12 High School	30 acres plus one acre for each 100 students

A functional and beautiful site is an asset that will influence the total school setting and will be reflected in numerous ways in the attitude and education of school children. The convenient location of a school within its enrollment boundaries is certainly desirable. There are, however, other factors which must be evaluated in making the final selection of a site. The following factors need to be carefully analyzed in making final determinations in the site selection process:

(1) General Soil Conditions

Geodetic and soil survey maps are available from county offices to determine such things as seismic conditions and ratings, land contours, drainage, and other soil conditions and ratings. The topography of the site should permit the drainage of surface waters from the grounds without creating a nuisance during inclement weather, thawing periods, lawn sprinkling, or irrigation. The school site must not be located in an area where there is a history or high possibility of flooding, high ground water, or snow or earth slides, or on an earthquake fault, or an area that was a repository for hazardous substances. Test pits should be dug to determine the general characteristics of the soil table and drainage of a potential school site *before* it is purchased by the school district. The subsoil must be a type that will provide a proper base for building foundations. Surface soils should be the kind that will make play field preparation and maintenance economical and efficient.

Please see Subsection d. "Geologic Hazards and Soils Report" in Section 3 of this manual.

(2) Site and Surroundings

Maps and aerial photographs should be used to gain a better understanding of the relationship of the sites being considered to the surrounding environments. Aerial photographs may show, for example, that a potential school site is safely accessible to children. The school district may also consider investing in a Level One Environmental Impact Statement, which provides decision-makers with a comprehensive report regarding the prior uses of the land and surrounding areas. Please see Subsection e. "Environmental Impact Statement (Level 1)" in Section 3 of this manual.

(3) Community Use

City and county planning officials must be consulted to review their recommendations for school site locations which best match planning and zoning ordinances as well as enhance community recreation facilities and services. A school site which is developed in close cooperation with community officials can be an excellent asset for multiple use. Development of a community park center in conjunction with a school plant is one of the most economical means of accomplishing such a task. These types of developments can range from limited use by neighboring children to large athletic centers and park facilities. Please see Section g. "New Construction Coordination" in Section 3 of this manual.

(4) Hazards

Hazardous conditions and installations in the vicinity of, or as part of, school sites must be avoided. Dangerous physical hazards exist in many forms including junkyards, ponds, canals, railroads, freeways, highways, as well as electric substations. Potentially dangerous conditions like these naturally attract children because of their curiosity. Airfields, fire stations, stores, taverns, mills, factories and other industrial areas sometimes become undesirable distractions or serious menaces to the safety and well-being of children. Dangerous highway conditions, such as high traffic density, high vehicle speed, poor vision of pedestrians by drivers or poor vision of vehicles by pedestrians, steep topography, and poor access to the roadway and high pedestrian traffic should be considered very carefully when site selection is in process.

(5) Health and Safety

The potential school site should be located where safe and healthful conditions exist for the building occupants. It is best to avoid sites that are subject to sources of odors, dust, disturbing noise, and other types of air and sound pollution. The water supply must be of adequate volume and pressure and of a safe, sanitary quality and must comply with the requirements of the state public drinking water rules. Municipal water and sewage connections are the most desirable for a school. Where on-site water supplies or sewage disposal systems are used, health and environmental codes must be strictly followed. Plans and specifications for such water systems must meet state safe drinking water standards and must be submitted to and approved by the State Department of Environmental Quality prior to construction. All newly installed or modified existing on-site sewage disposal systems must submit plans to the local health officer having jurisdiction for review and approval prior to construction or modification. Non-potable water supply systems used for irrigation or similar purposes must be operated in a completely separate storage and support system from potable water and must be maintained in compliance with Section 19-4-112 of the Utah Code. In addition, Administrative Rule R392-200, "Design, Construction, Operation, Sanitation, and Safety of Schools", contains several rules regarding school site selection, construction, maintenance as well as health and safety of school facilities. A copy of Rule R392-200 "Design, Construction, Operation, Sanitation and Safety of Schools" appears in Appendix F.

(6) School Site Uses

Education sites have long been used as an integral part of the instructional program. The usual use has been connected with physical education and recreation. Sizes of various game areas should be used for planning and space allocation when selecting a new school site. The natural and biological sciences can also benefit from such amenities as a grove of trees, a pond or stream, rock formations, as well as other parts of an outdoor setting. School officials are cautioned, however, that some outdoor sites can be an attractive nuisance and a liability during off-hours. State Risk Management notes that injuries to young children who have gained access to these areas occurs regularly. There have been drownings due to ponds, canals and streams. There have been injuries to children climbing into trees and coming into contact with overhead electrical power lines. Signage warning of such hazards is an important legal defense measure; however, security of the premises by appropriate fencing is most important. The public must be protected from such potential hazards.

A variety of other programs, such as mathematics, chemistry, or physics, will be able to use the site teaching-learning experiences as well. Some sites may be suitable for construction of amphitheaters for the school drama department or community use. Art departments might use the natural formations and background as an outdoor studio. Some schools need onsite ranges for driver education. Such ranges might be integrated into a variety of driving situations as needed.

c. Pupil Transportation Safety Considerations in School Site Selection and Planning

When school sites are being selected, consideration should be given to the safety of the pupils riding school buses. School buses will use the roads in and around the school site and public roadways leading into and from the school area. High density traffic flow near school exits and entrances should be avoided. Proper site selection and plant planning for improved school transportation is extremely important. Specifically, project architects, engineers and school officials should provide:

- Separate, adequate space for school bus loading zones.
- Clearly marked and controlled walkways through the school bus zones.
- Traffic flow and parking patterns separate from the boarding zone.
- A separate loading area for wheelchairs.
- An organized schedule of loading areas with stops clearly marked.
- A loading and unloading site free of conditions that require backing of school buses.

School districts are required to coordinate the siting of new schools with the municipality or county in which the school is to be located to "...avoid or mitigate existing and potential traffic hazards to maximize school safety."[4]

(1) Identifying and Avoiding Safety Hazards

It is important that pupil transportation and delivery vehicle traffic considerations be included in the planning and design of new school facilities if safety hazards are to be avoided and costly remodeling minimized. Consideration should be given to the roads or streets on which school buses and other school traffic will travel to and from the school; the flow of traffic to and from loading-unloading areas and parking lots on the school property; and the design of loading-unloading areas to minimize the possibility of pedestrian-vehicle conflicts. Specific considerations and recommendations that should be included in school site selection and school facility planning are listed below.

- Sites that would result in high density traffic near school entrances and exits should be avoided. This includes sites near freeway on- and off-ramps, areas of heavy commercial traffic, and roadways on which there is heavy commuter traffic.
- The local roads servicing the school should have a paved width of at least 30 feet. If loading and unloading areas cannot be provided on the school property, the streets upon which loading and unloading is to be accomplished should have a paved width of at least 40 feet.
- If necessary, traffic control devices can be provided to assist school traffic to enter the regular traffic flow. Such devices can be installed only by the appropriate state, county, or city road or street authorities. Requests for such devices can be initiated by school officials.

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[4] 10-9-106(3) and 17-27-105(3), Utah Code.

- To accommodate school buses that are eight feet wide and 40 feet long, the roads leading onto the school site from the public access roads must have a turn radius of at least 50 feet and preferably 100 feet. Islands may be used to minimize the width of driveway entrances and exits. Proposed driveway openings should be approved by appropriate state, county, or city road or street authorities[5].
- Design and placement of access roads should never require buses to be backed onto the school premises.
- Wherever possible, the roadways on school property that are used by school buses should be physically separated from those used by parents, pupils, teachers and other school personnel.
- All school bus traffic on the school property should be considered as a one-way traffic flow, preferably with the service door side of the bus always next to the loading and unloading zone.
- Vehicle delivery traffic patterns should not cross the school play areas or pedestrian traffic patterns leading to play areas.
- Whenever possible, roadways should not completely encircle the school building. Those areas that students must cross to engage in outside activities should be free from vehicular traffic.
- School roadways should be at least 30 feet wide for one-way traffic and 36 feet wide for two-way traffic. Roads should be wider on all curves. Curves should have at least a 60 foot radius on their inner edges and there should be at least a 50-foot tangent section between reverse curves.
- The pavement for school roadways used by school buses should be consistent with the higher axle weights of these vehicles. Pavement design and material standards are available from UDOT.
- It is recommended that curbing and suitable drainage be provided on all school roads utilized by school buses. Curbing should comply with the standards of UDOT.
- School roadways and loading areas should be designed to allow emergency vehicle access to the school at all times.
- School roadways should be designed to eliminate or minimize sight obstructions. This includes elimination of blind corners, dips and hollows which obstruct the line-of-sight of the vehicle operator using the roadway. In addition, landscaping should not be allowed to obstruct the motorist's view of intersecting roadways or walkways.
- The grade of school roadways should be limited to not more than two

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[5] Any driveway opening on a state highway must be approved by the Utah State Department of Transportation (UDOT) [http://www.sr.ex.state.ut.us/].

percent at entrances and exits and not more than five percent elsewhere.

- Whenever possible, school bus loading and unloading areas should be located on the school premises and off public thoroughfares.
- In planning bus loading and unloading areas, consideration should be given to:
  - The total number of pupils, teachers and other school personnel at the school.
  - The number of pupils to be transported to and from school on school buses.
  - The number of buses involved.
  - The type of schedule (staggered starting and closing times versus single opening and single closing time).
  - Extracurricular activities requiring the use of school buses.
- It is desirable to separate the school bus loading/unloading zone from the parking areas used by students, teachers, and administrators. Vehicular traffic to the parking areas should not pass through the loading areas used by buses or across the paths followed by bus riders entering the school building.
- Diagonal parking of school buses at loading/unloading zones and parking areas is the most desirable arrangement as it is the safest formation for loading. Bumper-to-bumper positioning is acceptable if plenty of room between buses is available. Whatever arrangement is used, it should not be necessary for a school bus to back up while moving into or away from a loading/unloading zone.
- Whenever possible, a separate discharge and pickup point should be established for students being transported by their parents in private vehicles. This area should also be separated from the school bus loading/unloading area. Hazardous conditions are often created by parents haphazardly discharging or picking up students in the area in front of or adjacent to educational facilities. This is particularly true during periods of inclement weather.
- School bus loading zones should be located such that students walking to school will not have to cross in front of parked school buses.
- Canopies over school bus loading/unloading areas are not considered necessary or feasible except where disabled children are involved. In such cases, the canopy should be high enough to accommodate the tallest school bus.
- In cases where severely disabled students are being transported by school bus, consideration should be given to a separate loading/unloading area especially designed for these students. Such an area might include

entrance ramps, handrails, etc.

- When school buses are parked on school grounds during the day, care should be taken that buses are located and oriented such that their reflective surfaces do not direct undue glare onto students and teachers in their classrooms.

(2) Donated School Sites

In their zeal to save money, boards of education may be tempted to utilize land donated to them for school sites even though the land has several safety hazards, i.e., located near highways with high traffic density, unsatisfactory terrain, lack of space for off-street loading/unloading zones, etc. In some cases, the cost of eliminating the pupil transportation hazards could exceed the purchase price of a better site. Since it will be necessary to provide for the safety of students for many years to come, it may be more cost effective to purchase a new site rather than use the donated one.

(3) Site Selection Timing

It must also be recognized that the sites upon which new schools are to be constructed are often selected prior to the hiring of an architect. It is therefore imperative that local boards of education and municipal planning authorities be alerted as to the potential dangers inherent in the selection of a new school site without adequate consideration to transportation safety. A checklist for the evaluation of school driveways and bus loading/unloading areas appears in Appendix G. Additional assistance in this area can be obtained by contacting the State Pupil Transportation Specialist or the Education Specialist for Property Tax and School Facilities at the State Office of Education, the State Department of Transportation, or appropriate local county or city road or street departments.

d. Geologic Hazards and Soils Reports

The Utah Geological Survey (UGS) [http://www.ugs.state.ut.us/Welcome.htm] performs school site geologic hazards reviews as part of the USOE approval process. During initial site selection, the UGS performs a preliminary site screening evaluation prior to design and construction—and preferably before final site selection—to identify any significant geologic hazards that should be considered in deciding if a site is suitable for a school or other district building. This evaluation consists of a literature review of existing geologic information. UGS provides a “Summary of Geologic Hazards” report, which typically identifies the potential for earthquake ground shaking, surface faulting, tectonic subsidence, liquefaction, slope failure, earthquake-induced flooding, landslides, debris flows, collapsible or expansive soils, erodible soils, non-engineered fill, shallow ground water, flooding from local streams, alluvial fans, lakes, canals or dam failures, and radon gas. See Appendix AG for more information on radon prevention in the design and construction of schools. Typically, the principal sources used are county natural hazard overlay zone maps. Usually, a field inspection of the proposed site is not necessary, unless there is evidence that a field inspection is needed. Please see Appendix AF of this manual for a summary of Utah Geological Survey Services to school districts.

Results of the preliminary screening are transmitted to school district personnel who should use the information to evaluate general site suitability, and then provide the information to the project architect to ensure that geologic hazards are adequately investigated further during the site-specific geotechnical/geologic hazards investigation of the property by the project geologic consultant. A State Office of Education "Guidelines and Review Checklist for Geologic Hazards Reports for New Utah Public School Buildings" appears in Appendix H. These materials also include references and a glossary of geologic hazards terms. They are provided in this resource manual to assist school district personnel and their consultants in their preparation of geologic hazard reports for potential new school sites. The School District Building Official (SDBO) must ensure that all new construction projects and sites have a comprehensive, site-specific geologic hazards study completed prior to project programming, scoping, scheduling, and financing. The geologic consultant's report must address *all* hazards, including any previously unrecognized geologic hazards at the site discovered during the site-specific investigation. The consultant's comprehensive report is then submitted to the UGS for an adequacy review. Results of the Utah Geologic Survey review are transmitted to the school district and the State Office of Education.

Ideally, the UGS should be consulted as early as possible in the site selection process so information on geologic hazards can be made available to the school district decision-makers for all sites being considered for a proposed school. The school district can then incorporate information about potential geologic hazards as one of the discriminating factors when selecting a final site for purchase. This process ensures that geologic hazards are addressed and incorporated in the site and building design in a timely manner where necessary. See Appendix AF Utah Geological Survey Services to School Districts on page 11-33 of this manual for a summary of UGS services for school districts.

e. Environmental Impact Statement (Level 1)

Where potential construction sites may have a history of use that could affect future uses of the site, School District Building Officials (SDBOs) may want to consider the development of a Level One Environmental Impact report provided by the school district consulting civil or soils engineer prior to construction. This report typically provides the school district with a comprehensive report regarding the prior uses of the land and surrounding areas and what chemicals, gases or "slag" deposits may be present as a result of prior uses. The report also looks forward at potential impacts on the land and surrounding area if a school or other school district facility is constructed. An example Level One Environmental Impact Statement appears in Appendix I [http://www.epa.gov/].

f. Site Acquisition and Development

Initial costs for land acquisition should be considered in conjunction with estimated development costs for the site. Considering initial costs alone can be a major problem. It is only when *both* acquisition and development are carefully considered that a realistic evaluation of the true costs of a proposed site results.

The main developmental costs of a site are related to the topography of the land and the nature of the subsoil. The subsoil characteristics of a site influence the cost of grading and filling. Cost of development is directly proportional to the extensiveness of grading and filling needed to accommodate a school complex. Engineered grading and filling will cost more than non-engineered grading and filling. Building footings, foundations or piling must be built to connect into the natural ground.

The cost of land, even in the same general area, varies greatly. This fact makes comparisons between sites in different school districts or sites within the same school district somewhat misleading. A school district should assure that the price of a site is reasonable and in line with current market value for the area. Competent real estate appraisers and other persons familiar with the locality should be used as consultants before a site is actually purchased. It is good public practice, if possible, to have at least two potential sites under consideration for each school building. This keeps the school district from being at the mercy of a seller who is aware of his advantageous possession of the only land considered suitable for a new school.

If the owner of the needed school site property is unwilling to sell at a reasonable price, and the piece of land is the only one that will fit school district needs, the school district may exercise the "right of eminent domain." This type of land condemnation is a legal procedure which may be used by specified public entities to acquire necessary land at a reasonable price. Courts usually require proof that the school district has no other reasonable recourse. After hearing the testimony of competent witnesses, the court will normally set the price to be paid for the land. School districts should secure competent legal advice regarding the advisability and the conduct of condemnation proceedings.[6]

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[6] See Title 78, "Judicial Code", Chapter 34 "Eminent Domain", Utah Code.

g. New School Construction Coordination

A new school can have a significant impact on a neighborhood or community. It is important for school district facility planners to work early in the process with county, city and town planning officials as well as local Utah Department of Transportation (UDOT) planners and personnel from the entities which will provide the power, water, sewer, and natural gas or other source of energy for heat. An example new school construction project planning and coordination guide appears in Appendix J. This sheet may be helpful for school district facility planners to use as they work with municipal, transportation and utility planners.

(1) Coordination with Counties, Cities and Towns

Nearly every political jurisdiction—whether it is a county, city, town, or village—will normally have some concerns regarding school construction within its boundaries. Possibly the placement of a new school will conflict with an existing local zoning ordinance. Maybe the school placement will have an adverse effect on traffic patterns. The location of the school might interfere with a flood impact drainage plan for the area. It could be that the businesses in the area—both existing and proposed—would be in direct conflict with the operation of a new school. In any case, the first stop should be with whomever is in charge of *planning* for the jurisdiction. This planning person may be called the community development director, the city or county planner, the engineer, the recorder, or even the building inspector. In some small municipalities, this person may wear many hats.

Regardless, school district facilities planners should check with whomever assumes responsibility for planning and zoning as early as possible in the siting and planning phase of any new school building—or even the addition to an existing school building. This person should be able to tell school district officials about all the people, divisions, departments, and agencies which may have concerns regarding the new school building project. This group will review the proposal to uncover any potential conflicts with local ordinances, existing businesses, and the municipality or county master plans or future plans regarding the parcel of land upon which the school district wishes to build.

(2) Coordination with Utah Department of Transportation

It is important that traffic patterns surrounding a new school be compatible with the neighborhood as well as the school itself. Elementary and middle/junior high school vehicular traffic will be very different from that of a large high school. School bus movement within the neighborhood must also be considered. How many buses will there be, and how often will they deliver and pick up students? Where will the delivery and pickup points be? How will school bus traffic flow affect community and business traffic in the area? Are additional semaphores needed? Is a pedestrian bridge over a busy street or highway needed? The municipal or county planning staff will know if the location of the proposed school is a potential problem for Utah State Department of Transportation (UDOT) planning personnel. If it is, municipal or county planners can get school district planners in contact with the appropriate local UDOT person so that potential problems can be averted or resolved.

(3) Coordination with Utilities Providers

Utilities planning for new school construction must be considered many months, if not years, ahead of actual construction. Some political jurisdictions own some or all of the local utility providers. In any case, school district facility planners must meet with local utility providers concerning the availability, capacity and location of the necessary utility lines. The municipal or county planning staff should also be able to give the names of the contact person for each utility service, even if all utility service is provided by an outside private agency. It may also be necessary to obtain approval for drinking water at new schools from the State Department of Environmental Quality, Division of Drinking Water, 150 North 1950 West, Salt Lake City, Utah 84114, (801) 536-4200.

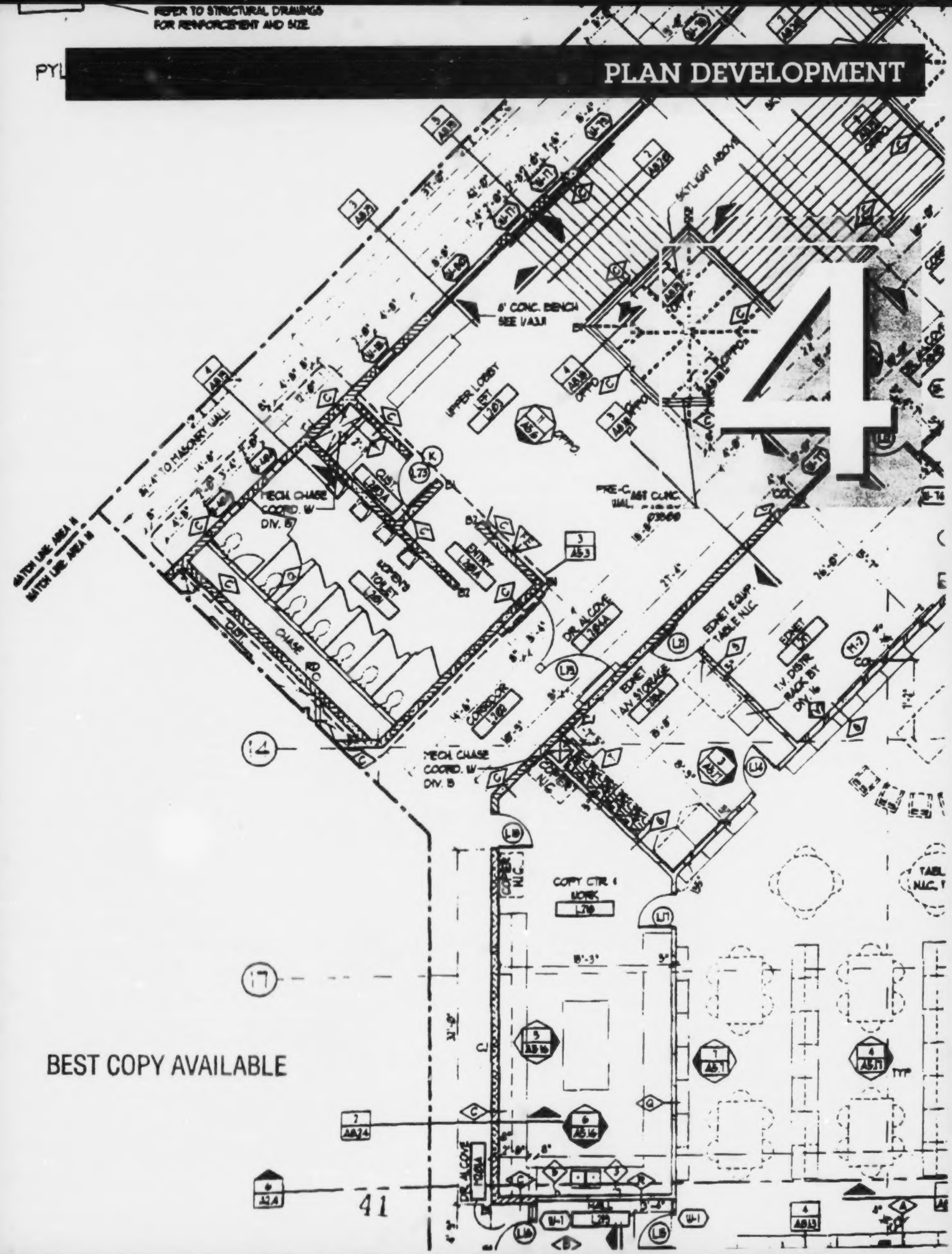
Utilities can take an extraordinary amount of time to acquire. For that reason, school district facility planning personnel should start the approval process with the local county, city or town and the local utility service providers at least one year in advance of the anticipated construction start date. Good planning and coordination with local agencies will ensure a smooth construction schedule and good relations with the local agencies for years to come.

h. School Site Selection Summary

School site selection is a process that should involve parents, public planning agencies—such as cities, towns and counties—and many other individuals and groups. The general public should be kept continuously informed of the growing needs of the school district for new school sites which are adequately sized. Careful evaluation procedures should be followed which will clearly and fully document the reasons for selecting or rejecting a proposed school site acquisition. Finally, if possible, the site needs of the school district should be planned several years in advance of actual school construction.

PLAN DEVELOPMENT

4


REFER TO STRUCTURAL DRAWINGS FOR REINFORCEMENT AND SIZE
SKYLIGHT ABOVE
8' CONC. BENCH SEE 1/A3.1
UPPER LOBBY
TO MASONRY WALL
MATCH LINE AREA A
MATCH LINE AREA B
MECH CHASE COORD. W/ DIV. 15
WOMEN'S TOILET
ENTRY
CHASE
PRE-CAST CONC. WAL.
DR. ALCOVE
CORRIDOR
EDNET EQUIP. TABLE N.I.C.
EDNET
EDNET A/V STORAGE
T.V. DISTR. RACK BY DIV. 16
MECH CHASE COORD. W/ DIV. 15
COPY CTR & WORK
COPIER N.I.C.
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4. Plan Development

After long-range planning has been completed, criteria and priorities for building needs have been established, a School District Building Official (SDBO) has been selected and trained, and potential sites have been identified, planning for a specific building can begin. If the new school is to support the educational programs and goals established by the board of education, the determination of the *educational plan* must precede the *architectural plan* in the design of a facility. The end product of such specific planning should be a set of education specifications. Thorough planning, resulting in complete and carefully determined specifications, is essential to a functional, cost-effective school facility. The Council of Educational Facility Planners, International (CEFPI) is an excellent resource [http://www.cefpi.com/cefpi/index.html].

a. Education Specifications

Education specifications are the written results of the planning phase handed to the architect/engineer to be translated into form and structure. They are the board of education's general statements of the problem which the architect is to solve and, as such, are the school district's primary guide to the architect and engineer in the development of building plans and specifications. Many architects and engineers refer to this document as the facility "program." The very nature of such a document makes its formulation the logical responsibility of the educators; however, the foundation components of the education system and programs described in the education specifications, the goals of the programs and student outcomes should be determined by the clients of the school and the public that the school serves within the constraints of statutory and administrative rule.

The format in which education specifications are expressed may vary according to the desires of the planners. Some general requirements should be met whatever the format.

(1) Written Education Specifications

The education specifications should be written. Although many conferences and discussions with the architect will be necessary and desirable, written specifications, clearly stated, must be available to the architect for guidance. They reduce the possibility of misunderstanding and can eliminate future disagreements over what specific directions were given.

(2) Format and Language

The education specifications document should be organized and written for the architect in a format and language that is understandable and precise. The architect can only respond to the specifications as he or she understands them. The document, then, must communicate accurately.

(3) Not Design Solutions

Education specifications should not be stated as design solutions. They are, in effect, a statement of the problems the architect and engineer must solve, not the design solutions to those problems.

(4) Developed by the Planning Team with Consultant Help

Education specifications should be developed by the education planning team; however, consultant help must be made available to that team. One danger in educators planning education facilities is evidenced in some new schools buildings—they tend to express education specifications that can lead to built-in obsolescence in a new building. Planners must be alert to the danger and make consultants available to the team who can look at trends and look ahead to ensure that education specifications reflect such concerns.

Education specifications, at a minimum, should give the architect/engineer information in four areas:

- The philosophy of the school. It should be stated including the goals and values to be achieved and outcomes desired from the school.
- The education programs that have been designed to meet the goals, values and outcomes. Such programs should be described in detail—too much information is preferable to too little.
- The activities, groupings, and equipment necessary to support such programs, including student numbers involved.
- The implications for space and space relationships that come from the programs and activities.

Some information will, of course, be routinely supplied: number of pupils, grades to be included, provisions for community use, nature of future expansion, funds available, scheduled date of occupancy, and total staff and types of positions to be accommodated.

Additional information helpful to the architect might include the characteristics of the community, special requirements such as the ability to combine classroom space for larger instructional areas during certain times of the day, cafeteria space that doubles as a commons or presentations area, after school programs, or space for business partners or sponsors. Other predetermined general characteristics that are helpful to identify include the need for self-contained classrooms, how technology will be used in the school, or the need for in-school suspension specialized space. These are examples; actual needs will vary greatly.

b. Planning Using Education Specifications

Education specifications, then, should identify the design problems and should be expressed effectively and accurately. The format may be narrative, outline, charts or a combination of these.

The planning process, resulting in written education specifications, is of paramount importance. It should produce the best thinking of the planning team. The composition of this team must receive careful consideration. It may vary somewhat from district to district but, in general, should represent the public whom the school will serve, the school administrative team, the district administration, the board of education, the instructional staff, the classified staff, the para-educators, the students, and the architect. Competent consultants should be made available to help the team.

The education specifications developed by the planning team must receive the approval of the board of education. To prevent misunderstandings, it should be made abundantly clear to members of the planning team at the time of their selection and chartering, that they will make recommendations to the board of education and are not working in a final decision-making capacity.

The planning team should be aware of trends in education and of the design solutions provided by architects, engineers and other consultants. Education facility consultants can provide information on trends as well as suggest literature and schools where excellent design solutions can be seen. One consideration that should be constantly in the minds of the planners is that the life expectancy of the new school they are planning will be from 50 to 75 or more years. Thus, the school may well outlast the programs for which it was designed. To hedge against obsolescence in a school facility, planners would be wise to provide, in their education specifications, that the building be highly flexible.

Current technology makes it possible for the facility to be so designed and constructed that the mechanical, electrical, communications, and interior wall systems can be readily changed to provide new types of space and spacial arrangements. This capability should be a prerequisite for new educational facilities so that early obsolescence due to education program changes does not occur and, equally important, so that needed program changes are not delayed or rejected because of facility restrictions.

c. Designing for Safe, Secure Schools

Violence in our schools is an ever growing concern. It is not a matter of *if* violence will occur, but *when*, and how much violence will be experienced. The threat is there and failure to act opens each school district to extensive liability. Remember the most important thing is the protection of students and staff. Many programs can be implemented for students to reduce aggression. Training for staff can also be established to catch potential problems early. Even security equipment may be purchased and installed in both new and older buildings. While all of this will improve the level of security the real test is to design and construct schools so security will be built into the entire process. Security should be examined from the design phase through construction. Valuing out security for cost should only be done in extreme situations. The odds of dealing with a violent incident at school are more frequent and probable than a natural disaster. The entire campus must be designed so education of students is primary and the fear of violence is eliminated.

Several security-related designs may be implemented when a school is being planned. It should be the school district's responsibility to have the architect examine each recommendation noted in this section of the resource manual as well as those the district, the school board, parents and the community feels warrant concern. The architect will also have opinions on what is needed and what might not be needed. Good communication needs to take place so when the school is built or remodeled the best solutions are implemented. To facilitate good logical thinking, the discussion of security should be addressed from the exterior into the interior.

(1) Perimeter of School Grounds

- All schools need to have a weapon-free zone established around them. Signs should be posted that say no weapon is allowed on campus, or school property.
- There should be a separation of parking areas. Staff should have an area for parking in which students are not allowed to park. Parents and visitors should also have their own separate parking locations during school hours.
- Traffic flow on school grounds should be free-flowing. Students should be able to come and go from the grounds and not have to work their way around the activities of the community. Staff should be able to come and go without interference from students or the community.
- Landscaping at the school needs to eliminate potential hiding places. Bushes and trees that offer hiding locations need to kept away from the school building. People need to be able to drive past the school and see what activities are going on around it.

(2) Parking Areas

- Lighting is essential to the parking security of the grounds. Adequate lighting needs to be in place so that criminals will not want to conduct business in the parking areas.
- The parking lots need to be visible from the school, and the school visible from the lots. This helps in deterring crime. No one wants to be caught while in the middle of a crime.
- The routes from the parking areas need to be as short as possible. Direct access to the school is essential and should be monitored. This means if security cameras are installed, the cameras need to cover the walkways. The entire walkway should be visible from the school.
- Parking next to the school should not be allowed. The only vehicles that should be allowed to park next to the school should be for deliveries. All parking should be monitored by staff. Gates or barriers need to be installed to protect against attacks.
- Signs should be visible to tell all the parties which parking is for whom and how to find their respective lots.

(3) Building Exterior

- All dead spaces (those not visible) need to be eliminated. There should be no hiding places.
- All doors do not need to be both entrances and exits. Some doors need to be designed not to have handles on the outsides. They can be permanently locked on the exterior with crash bars on the inside to facilitate building egress.
- All entrances do not necessarily need to be unlocked throughout the day. In the morning one entrance should be open for all early morning work. A half-hour before school starts the rest of the doors could be unlocked. A half-hour after school ends all but one door could be locked again. This has the potential of forcing all traffic to filter past the school office.
- The main school entrances should be monitored. This could be by cameras. If cameras are not installed, there should be a physical presence made by someone with authority at each entrance.
- Roof access should only be made from inside the building. There should be no way to reach the roof from outside the building. This includes intentional access or unintentional access.
- All lights need to be Metal Halide type. Sodium lights are not as bright and effective.

(4) Building Interior

- All doors in the building need to be lockable. This will simplify a lock-down situation.
- All doors need to be made of solid wood or steel. No glass doors should be allowed. In case of a shooting glass could be destroyed and entry made. Also, the potential for flying glass in a natural disaster is greater.
- In designing the school, interior foot traffic flow needs to be addressed. Areas that have heavy use, such as gymnasiums or auditoriums need to be located in the same section. If, for example, the community is using the stage and auditorium or the gymnasium, the rest of the school needs to be secured.
- Traffic flow control can also be used to advantage in cases of violence. If a suspect is in a part of the school, the other parts can be secured. This keeps the violence contained. It would be most helpful if all security gates or doors had remote-controlled opening and closing devices on them.
- All phones need to be in sight of the school office and should be monitored. This reduces the possibility of false bomb threats made by students in the school.
- All phones need to have Caller ID and tracing capabilities. This also reduces the potential of false bomb threats and harassing phone calls.
- All glass in the building should have safety glaze. This eliminates the shattering of glass in a violent episode or disaster. There are fewer projectiles if safety glazing is in place.
- Signage in the building should be clear and simple. All visitors must check in at the school office. Staff should challenge anyone they do not recognize and visitors should wear some identification.
- The office should be found at the main entrance to the school. Security personnel, if present in the building, should also be found near the front of the school. This gives the appearance that security is important at the school.
- An access system should be in place so that after a certain time only those with access cards have entry to parts of the building. This reduces free movement through the school and lets staff track who is in the building.
- The school needs to have a lights-out policy. While this can be debated, lights *on* when they are supposed to be *off* alerts passing security patrol personnel so the incident can be checked out as suspicious.
- Hallways need to be as straight as possible. No nooks or recesses should be allowed. Potential hiding places give criminals a place to conduct business without being seen.
- Common areas and all locations should have adult supervision and

presence. The school should be designed so that staff may access all parts of the building. Students, like adults, do not want to be caught violating the rules. If they have a chance to do something in obscurity they may.

- Doors to restrooms should be eliminated. A wall can be built in the restroom that will ensure visual privacy, but without the doors there is less chance for physical misbehavior.

(5) Communications

- Being able to communicate in a disaster or violent incident is critical. A two-way address system should be installed in each classroom with a back-up power supply attached to it.
- Panic buttons should be installed in every classroom (including portable classrooms). The ideal situation is to build this into the access system so each staff member has a portable alarm with them. If, for example, they enter a restroom and see a problem they can push the button and the office will receive the alarm with the location.
- All alarms need to be loud enough so they can be heard in all parts of the building.

While these are some ideas specifically developed for schools, it should be noted that government and private industry have been working at keeping all locations safer as well. Other ideas can be found at several Internet sites. The State of Utah has developed "Security Recommendations for State Buildings." These recommendations may be found at the following Internet address: http://www.risk.state.ut.us/. Besides this site, the Division of Risk Management has on staff a security consultant who can come and assess the needs of each school and help discuss ideas to improve security there. The phone number to this resource is (801) 538-9566. School security is essential to ensure that school personnel can focus on their mission: "To prepare every student with the knowledge and skills needed for lifelong success in a changing world."[7]

d. Selecting an Architect-Engineer

Administrative Rule R33-5 "Construction and Architect-Engineer Selection" provides direction for the selection of architect-engineer services. It is the policy of the State to give public notice of all requirements for architect-engineer services and to negotiate contracts for these services on the basis of demonstrated competence and qualifications for the type of service required, and at fair and reasonable prices.

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[7] From Granite School District's mission statement.

(1) Annual Statement of Qualifications and Performance

School districts must request firms engaged in providing architect-engineer services to submit annually a statement of qualifications and performance information which should include the following:

- The name of the firm and the location of all its offices, indicating the principal place of business.
- The age of the firm and its average number of employees over the past five years.
- The education, training, and qualifications of members of the firm and key employees.
- The experience of the firm reflecting technical capabilities and project experience.
- The names of five clients who may be contacted, including at least two for whom services were rendered in the last year.
- Any other pertinent information regarding qualifications and performance information requested by the school district.

The Consulting Engineers Council of Utah (CECU) and the local chapter of the American Institute of Architects (AIA) are required to provide the results of an annual survey on billing rates within their respective disciplines to school districts prior to April 1 of each year.

(2) Request for Statements of Interest

School districts must prepare a request for statements of interest (SOI) which describes the school district project requirements and sets forth the architect-engineer firm evaluation criteria.

(3) Small Purchases of Architect-Engineer Services

When the procurement of architect-engineer services is estimated to be less than $20,000, school districts may select the provider directly from either the list of firms who have submitted annual statements of qualifications and performance information, or from other qualified firms, if necessary. The state procurement code requires that if the procurement is estimated to exceed $20,000, the architect-engineer selection committee method must be used.

(4) Architect-Engineer Selection Committee

The school district architect-engineer selection committee must consist of at least three members, where possible at least one of whom is well qualified in the professions of architecture or engineering, as appropriate. One member of the committee will act as chair and will coordinate the negotiations of a contract with the most qualified firm. Contracts are awarded at compensation which the school district determines to be fair and reasonable. In making the decision, the committee must take into account the estimated value, the project scope and complexity, as well as the professional nature of the services to be rendered. The selection committee must select for discussions no fewer than three firms evaluated as being professionally and technically qualified, unless fewer than three firms responded to the request for SOI. Should the selection committee be unable to agree on a satisfactory contract with the firm first selected, at a price the school district determines to be fair and reasonable, discussions with that firm are formally terminated. The committee then begins discussions with other qualified firms—one at a time—until an agreement is reached (63-56-44 UCA).

e. School Facility Design

The district's long range plan is in place, a site has been selected, the education specifications are written, and an architect has been selected, but the work is not yet done. Although an exciting process, design of a school takes time and effort on the part of school district administrators, staff and the Board of Education. The best projects are a result of an investment in time during design by all involved. An architect cannot and should not design a school in a vacuum.

The architect should begin by reviewing the site and surrounding community. Any history on the selection of the site is helpful. The education specifications should be reviewed and updated, if required. If the education specifications are recent and the planning team is available, the project will benefit enormously from a collaboration of the planning team and design architect.

It is best if a design committee is assembled to work with the architect and engineers. The designers bring experience and expertise to the process, but must discover the special needs and aspirations of the patrons and users of the school. The design committee should have representatives from the Board of Education, district administration, teachers, support staff, parents and students. These last two categories are sometimes forgotten but are the most crucial. Parents and students are, after all, the ultimate client we are all serving.

The architect will meet with the design committee to discuss the philosophy and goals of the community and school district prior to starting the school facility design. The design committee will meet further to review schematic building and site designs and to assist the architect in selecting construction materials, building systems, and the architectural image.

(1) Site Planning and Design

Issues of site access, traffic patterns, surrounding property usage, building orientation and public image are investigated and resolved. On site school bus, automobile and pedestrian access are designed. Play fields are laid out. Delivery access to kitchen, mechanical spaces, and trash removal is dealt with. Building and site utility requirements are outlined. On and off-site utility impacts are investigated. The local municipality should be contacted to discuss zoning ordinances, traffic impact, availability of water for fire protection as well as quality of culinary water. Sanitary sewer systems need to have available capacity checked. Storm drainage requirements—such as on-site rainwater detention—need to be identified. Other agencies should be contacted for information such as Utah Department of Transportation (if the site is on a state highway or right-of-way), electrical power and natural gas companies, telephone, cable television and irrigation companies.

The architect should coordinate these efforts but will need assistance from district staff. A civil engineering consultant should be commissioned by the school district at this point to design site utilities, pavements and grading.

(2) Building Schematic Design

The architect will draw floor plans, elevations and renderings to indicate the design intent. These drawings have enough information to show compliance with the education specifications and requirements of the design committee. A site plan should be included. Additional drawings expressing any unique building issues may also be required. A statement of probable costs should be required of the architect to show that the project will meet budget requirements set forth in the education specification.

These drawings should be reviewed by the design committee and school district staff. They should then be presented to the community and approved by the Board of Education.

The State Fire Marshal must also be contacted to review these plans as per Section 4. Subsection f. of this resource manual.

(3) Design Development—Selection of Systems and Materials

When the schematic design is approved by the Board of Education, the architect, with the help of the design committee and district maintenance staff, need to select construction materials for floors, walls, ceilings, doors and windows, cabinetry and equipment, etc. The heating ventilating and air conditioning (HVAC) systems, plumbing fixtures, fire alarm, intercom/sound, security, telephone and television systems are selected. Past maintenance problems should be discussed to discover methods of improving construction. The architect should enlist the help of structural, mechanical and electrical consulting engineers at this point in the project.

Principals, teachers, custodians, school foods and pupil transportation department staff, should be interviewed concerning equipment, site and building issues.

The architect then prepares more detailed drawings and an outline construction specification reflecting the wants and needs of the school district. An updated statement of probable cost is submitted at this time to show the project is on budget. These drawings and construction specifications should be reviewed by the design committee and district staff. Approval may be given by the administrative staff or the Board of Education may want involvement. These documents are used in the value engineering process described in part 5. b. of this reference manual.

(4) Construction Documents

Once design development approval is given and value engineering is complete, the architect and consulting engineers prepare construction documents to be used in the bidding process and as the guide for the contractor to construct the project. Detailed drawings and construction specifications are prepared. The design committee and district staff's time involvement is minimal at this stage; however, they should be available as a resource as questions of coordination arise. Once again a statement of probable cost should be required of the architect to assure the project is on budget prior to bidding. Bidding a project and having it go over budget is not a pleasant experience. Approval to proceed to the bidding process is usually given by the Board of Education.

f. The Architect's Ongoing Role

The school building design is complete, drawings and specifications are printed, and all plan review has taken place. The project is well on its way; however, the architect can and should be commissioned to assist the school district with bidding and construction administration, including project closeout and startup. The architect can assure continuity, from education specification to the opening day of school, to ensure the written program was completed in bricks and mortar. Many school districts have architects and/or project managers on staff, but benefit from requiring the design architect and engineers to stay personally involved throughout construction.

A one-year post occupancy and contract warrantee review of the project by the architect and engineers is a good way to make sure the building is used as it was designed and to identify any problems the contractor needs to repair under warrantee.

g. School District Building Official (SDBO) and State Fire Marshal Plan Review at Schematic Phase

The School District Building Official (SDBO) and State Fire Marshal's office [http://www.fm.state.ut.us/] will conduct a preliminary plan review at the schematic phase of the project. It is recommended that the SDBO work closely with the State Fire Marshal representative from this point forward regarding the project. The project architect needs to be present also during this review because there will be many questions Fire Marshal's office personnel will have due to the early stage of the project development.[8] The site plan is reviewed for local fire department access, fire hydrant placement, and proximity of the building to other structures or exposures. Other specific review points include the architect's determination of the following:

- Building occupancy
- Construction type
- Area of the building
- Height of the building
- Need for fire sprinklers
- Need for area separation walls
- Need for fire rated corridors
- Alternate methods or materials (trade-off's)
- Special or unusual circumstances
- Egress—including door swing, location, size, and number, as well as egress travel distances

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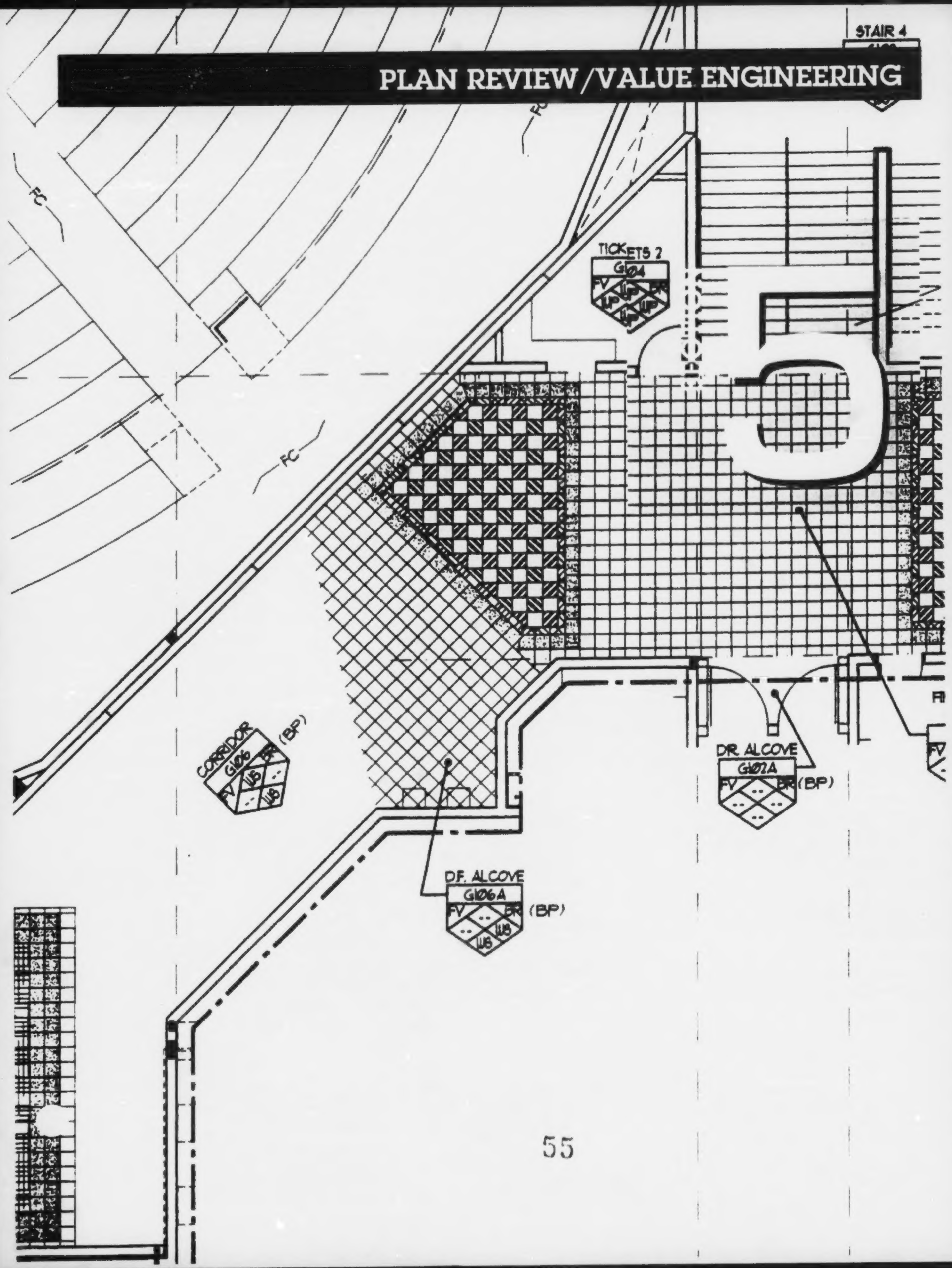
[8] NOTE: This preliminary schematic review cannot be considered a final or complete review, although some architects have considered it incorrectly to be so in the past.

PLAN REVIEW/VALUE ENGINEERING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5. Plan Review/Value Engineering

a. Coordination with Cities and Counties

A good working relationship with municipalities is ever more critical in today's political and economical environment. It would behoove school districts to educate city and county leaders and staff that educational facilities are municipal infrastructures just like streets, parks, police and fire stations. Good schools are important to municipalities. City and county governments, more often than not create the need for a new school by approving commercial and housing developments, yet give little assistance to school districts to provide that infrastructure. In fact, quite often municipalities waive much of the tax revenue the school district requires to meet those needs using redevelopment and economic development (RDA and EDA) provisions of the law. School districts should communicate with cities and counties about upcoming planning and zoning issues and major private development approvals.

Prior to property acquisition, school districts should contact the municipality and research growth trends and possible zoning changes that could affect the site in question.

During the site planning and design, the school district should approach the planning commission for their input, as well as the municipal engineering staff, for information concerning roads, pedestrian ways, utilities and adjoining property usage.

When new educational facilities require off-site street improvements and/or utility connections, the municipality will require construction to be done to their standards and inspections. Storm drainage detention requirements will also have to be met. Often fire suppression water lines built on school property will be constructed to city or county standards as well.

School districts are required to report inspections to the municipality as spelled out in part 7. a. of this reference manual. The building departments of the municipalities can be a resource for help with construction inspections if the school district does not have inspectors on staff.

b. Value Engineering and Life-Cycle Costing at Design Development Completion

The obligation to conserve energy and the need to reduce long-term operational costs require school districts to use planning techniques that will contribute to the design and construction of energy-saving, cost-effective educational facilities. Two closely related management tools are available to school districts that have the potential to do just that:

value engineering and life-cycle costing.

(1) Value Engineering

Utah Code 53A-20-102(2)(e) requires that if the estimated project cost exceeds $300,000, the school district must complete value engineering reviews of the plans and specifications. Value engineering or value analysis is a systematic approach to obtaining the greatest value for each dollar spent in building construction. It is concerned with a *cost* versus *worth* evaluation to give a broad information base from which decisions are made to produce cost effectiveness. The process should take place at the completion of design development. This allows for enough detail of building design, materials and systems that they may be evaluated, but the design and drawings have not progressed so far that the school district and architect are reluctant to make suggested improvements.

Value engineering is required to assure that the project is completed in such a way to give the most long term value to the community and quality to the school building. Life cycle costing should be used to determine material and system choices. In value engineering such questions as the following are asked:

- What is it?
- What does it do?
- What should it do?
- What does it cost?
- What other materials or methods could do the same job?
- What would alternative materials or methods cost?

Value engineering should ***not*** *be considered a cost cutting exercise.* No value is gained by using roof-top mechanical units that wear out in twenty years or a cheaper floor carpet that must be replaced in five years. True value engineering suggestions often add cost to a project. If the project is over budget at the design development phase, the program and schematic design should be revisited to cut building area or the budget should be increased. *Construction materials should not be cheapened and compromised to become an ongoing maintenance budget burden for the next 50 to 75 years.*

Value engineering can be accomplished in many ways. The design committee architect and engineers will hopefully be practicing it throughout the design process. Several formal methods can be used. One way is to have district staff, if enough qualified personnel exist, formally review the plans with the architect and engineers. District plumbers, electricians, maintenance personnel, custodians, other administrators and staff sit down and discuss the design with the architect and engineers. Another method involves a "cold team" of design professionals. The "hot team" are the contract architect and consulting engineers. The "cold team" consists of an architect, structural, mechanical and electrical engineers commissioned independently. The "hot team" presents the project design to the "cold team" and school district staff. The "cold team" then brainstorms with the school district staff, coming up with a list of suggested improvements.

The purpose of value engineering is to validate the design direction of the project and to step back and look at the total picture. No suggestions or comments should be held back during the design development value engineering review.

With either method, the design committee, district staff, architect and engineers then prioritize the suggestions and make the decision whether to implement them based on program criteria and the budget.

In recent years value engineering has also taken into account life-time costs as opposed to just initial costs. Life-cycle costing has become a part of the value engineering process.

(2) Life-Cycle Costing

Life-cycle costing is the determination of the total cost of a building or an element within a building over the assumed life of the facility. The principal components of life-cycle costing are:

- The initial capital costs, including actual construction, architectural and engineering fees, furniture, equipment, land, site work, and landscaping.
- Annual costs, which includes renovation, alteration and replacement costs, maintenance and custodial costs, utility and fuel expense, as well as grounds maintenance costs.
- Finance, interest, and bond sale charges related to initial construction.

It may be less costly over the life of the building, for example, to purchase Heating Ventilating and Air Conditioning (HVAC) system "A" at an initial higher cost than HVAC system "C" at an initial lower cost because HVAC system "A" will last longer with less maintenance costs over the life of the building.

c. Structural Peer Review of Plans at Ninety Percent Completion

Utah Code 53A-20-102(2)(e) requires that if the estimated building project cost exceeds $300,000, the school district must complete value engineering reviews of the plans and specifications. This review is usually completed at approximately thirty-percent completion of design. As part of the plan review by the School District Building Official (SDBO), an additional structural State-adopted building code (58-56-4, UCA; see Section

9, Subsection w. of this manual) review of the building shall be done at the ninety percent completion phase of design. A licensed Structural Engineer must perform this code review. The review will focus primarily on the lateral load resisting systems and details. At this time such systems should be clearly identified, and sufficient detailing should be present within the contract documents. The basis for the review is the current seismic loads generated from the most recent adopted building code.

As a means of reducing the costs and the time involvement for this second structural review, it is suggested that the same structural engineer that took part in the thirty-percent value engineering process review perform this task. Unless major deficiencies are discovered, sufficient time should be left within the design period to implement any corrections necessary. If major problems are discovered, there should be sufficient time to complete the corrections without delaying the project.

All new school construction and major additions to existing facilities located in regions of moderate to high seismic risk must be subject to this procedure. These regions are identified and located within Zone 2B, and Zone 3 in the latest version of the building code.

d. USOE Plan Review

The Utah State Office of Education (USOE) plan review begins with the receipt of preliminary drawings or schematics and three forms, completed by the project architect:

- "Preliminary Information on Proposed School Facilities Construction", form SP-4. The information contained on this form identifies what the project is, where it is, who the owner is, who the project architect is, and what the preliminary cost estimate is. This form opens the project file at USOE. The form can be mailed, transmitted by facsimile, e-mailed or delivered directly to the School Facilities Specialist at the State Office of Education. The completed SP-4, with preliminary drawings or schematics, is the first step in the approval process. A copy of an SP-4 form appears in Appendix K.
- "Final Plans Data on Proposed School Plant Construction", form SP-5. The information contained on this form identifies the total area, number of stories, type of structure, estimated month and year of completion, the number of instructional rooms and other types of support spaces. The form can be mailed, transmitted by facsimile, e-mailed or delivered directly to the School Facilities Specialist at the State Office of Education. The completed SP-5 must be returned before the final plans are approved. A copy of an SP-5 form appears in Appendix L.
- "Architect's and School District's Certifications", form SP-5a. This form contains the signatures of the project architect and school district

superintendent certifying that all standards and building code requirements adopted by the State Board of Education have been incorporated into the plans and specifications for the project. The State Board of Education has adopted the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) as well as all administrative rules pertaining to building and school facility construction. A copy of an SP-5a form appears in Appendix M.

The School Facilities Specialist reviews the preliminary drawings or schematics as well as the final drawings and specifications from an application to education point of view on behalf of the State Superintendent of Public Instruction with the help of several curriculum, technology, pupil transportation and child nutrition education specialists.

The School Facilities Specialist, along with the School District Building Official (SDBO), also monitors and ensures all building and inspection codes, rules and regulations are complied with as the project progresses to completion.

e. Energy Code Plan Review

Energy conservation should be a major factor in the design of every new school building. The federal Energy Policy Act (EPAct) of 1992 required states to adopt ASHRAE[9]/IES[10] Standard 90.1[http://www.hvacexchange.com/cooltools/sspc90_1/ index.htm]—1989, or an equivalent, to assure a basic degree of energy design. The 90.1-1989 Code is intended to promote the application of cost-effective design practices and technologies that minimize energy consumption without sacrificing either the comfort or productivity of the occupants. In response, the State of Utah adopted the "Energy Code for Commercial and High-rise Buildings" (the "Energy Code"). In Utah each new school facility or addition/remodel project costing in excess of $100,000 must comply with the Energy Code. The main purpose of ASHRAE/IESNA Standard 90.1 is to establish minimum energy-efficiency requirements for both new building construction and new portions of buildings without compromising the comfort or productivity of occupants. The requirements apply to the building envelope, distribution of energy, systems and equipment for auxiliaries, heating, ventilating, air conditioning, service water heating, lighting, and energy management.

In April 1997, Utah's Uniform Building Code Commission approved use of another, simpler-to-use method, known as "COMcheck-EZ". This was designed by the U.S.

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[9] American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

[10] Illuminating Engineering Society of North America.

Department of Energy's (DOE's) Pacific Northwest National Laboratory to achieve building energy efficiency "generally equivalent" to that obtained through compliance with ASHRAE/IES Standard 90.1. COMcheck's Mechanical Section is limited to simple heating, ventilating and air conditioning (HVAC) systems, and is not applicable to build-up systems. In most larger buildings, the designer will still need to use the Energy Code Mechanical Section. But the Electrical (lighting) and Envelope Sections of COMcheck may be applied even though the Mechanical Section isn't, providing a simpler compliance regimen.

Both methods allow use of either fill-in-the-blanks compliance forms (a complete set of ASHRAE/IES Standard 90.1 forms appears in Appendix N) or personal computer-generated compliance forms. COMcheck compliance forms, software disk, and instructions for using COMcheck may be obtained from Pacific Northwest National Laboratory by phone—(800) 270-2633—for $20.00, or free by Internet download at http:\\www.energycodes.org. A copy of this Internet home page appears in Appendix O.

Educational programs dealing with energy conservation can help make conservation a way of life. Schools can directly attack the problem of increased energy use in their own operations. New schools carefully designed to conserve energy in the total school operation and over the life of the building should be an important part of a school district's overall conservation program.

Each project architect is responsible to ensure that the plans, specifications and proper energy analysis data are provided to the State Office of Education energy consultant engineer[11] prior to authorizing the beginning of construction. The project architect, school district superintendent and USOE School Facilities Specialist are provided a written energy code compliance report in a timely manner so any needed corrections can be made prior to construction. Following construction, an energy code field inspection is made to ensure the facility is actually constructed in compliance with the Energy Code.

Appendix P contains a document called "School Energy Costs—A Matter of Leadership", published by the Utah State Office of Energy Services [http://www.aste.usu.edu/docs/index.shtml]. This publication offers energy saving concepts for public school administrators, facility managers, teachers and maintenance staff.

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[11] At this time the consultant is Jerry Zenger at the University of Utah. Address: Utah Engineering Experiment Station, 138 KRC, University of Utah, Salt Lake City, UT 84112. Phone: 581-6348. FAX: 581-5440.

f. Certified Plans Examiner Review

Prior to bidding a project, the School District Building Official (SDBO) must arrange for a certified plans examiner to review the plans for compliance with the Building Code, Electrical Code, Mechanical Code and Plumbing code and have corrections implemented into the plans and approved by the plans examiner. Correcting errors prior to construction may reduce the need for expensive change orders later in the process.

g. School District Building Official and State Fire Marshal Plan Review

All plan review submittals—whether they are for the final plan review, a fire sprinkler plan review, or for the fire alarm plan review—must be accompanied by a completed "Fire and Life Safety Plan Review Submittal Form" with the architect's code analysis for the project. No incomplete plans will be accepted for review by the State Fire Marshal's office. A copy of the Submittal Form is included in Appendix Q. All items called for on the "Fire and Life Safety Plan Review Submittal Form" must be supplied at the time of submittal—for example: cut sheets on the hardware. The engineer's "Fire Protection Water Supply Analysis" must also accompany the final plan submittal. A copy of the "Fire Protection Water Supply Analysis" content list is included in Appendix R.

The final plan review must be completed by the School District Building Official (SDBO) and the State Fire Marshal's office prior to bidding the project. It is important that architects plan for appropriate review time within the project schedule. All plans and specifications must be complete when they are submitted for review. The plans must also show all buildings and roadways within 150 feet of the proposed building for exposure determination.

Remodel or addition project plans and specifications must also show enough of the existing building(s) to determine proper fire protection and personnel exiting as well as whether or not the project causes or compounds any problems with existing buildings. This includes any relocatable buildings near the potential project.

In addition to general, rather generic comments that may be noted in the review response letter back to the architect, a specific review is completed noting where the plan and/or specifications documents are deficient. The review will include an in-depth evaluation of all items on the preliminary schematic list (see Section 4. Subsection f. of this reference manual), plus all of—but not limited to—the following:

- Corridor construction
- Fire proofing of structural members (spray or encasement)

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- Stairs and ramps
- Exit enclosures, including passageways
- Shafts
- Fire extinguisher locations and types
- Open areas, such as commons areas or cafeterias
- Pass-through passageways
- Intervening rooms
- Special doors (overhead, sliding or folding)
- Dead ends and obstructions
- Hazardous areas (science labs, boiler rooms, shops, etc.)
- Attic smoke and draft stops
- Insulations
- Wood usage in connection with construction types
- Door and window schedules, along with hardware
- Finish schedule
- Special architectural appliques
- Fire and smoke dampers
- Plenums
- Emergency lighting
- Exit signs
- Fire alarm systems, including placement of horn/strobe, pull stations, heat and smoke detectors, and fan shut down.

Sprinkler and alarm plan and specification submittals must be reviewed by the project engineer of record and then submitted along with a copy of the engineer's review comments.[12]

A plan review letter is generated by the School District Building Official (SDBO), together with personnel at the State Fire Marshal's office, and sent to the project architect. The plans and specifications are not returned to the architect. The architect must respond to the School District Building Official (SDBO) and the State Fire Marshal's plan review letter in writing prior to the commencement of any construction.

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[12] This is in accordance with the Uniform Building Code (UBC) 106.3.4.2 "Deferred Submittals" requirement (the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

h. State Fire Marshal Inspections

Due to the large volume of projects ongoing throughout the state and the limited staff at the State Fire Marshal's office, for the most part, State Fire Marshal inspections are limited to a 70% Completion inspection and a final inspection. However, State Fire Marshal personnel do conduct additional "construction-in-progress" inspections, and it is rare that a final inspection consists of only one visit to the project. It is most important that the architect, contractor, a representative from the school district, and the local fire department be present for the 70% Completion inspection. To this is added all appropriate sub-contractors for the final inspection.

At the 70% inspection the State Fire Marshal's office will check all of, but not limited to, the following:

- Fire department access
- Fire hydrant placement and operation
- Fire walls (area separation; complete to the deck; penetrations; dampers; etc.)
- Exiting (any obstructions?)
- Sprinkler piping, stand pipes and hydrostatic tests
- Certificates of underground piping tests
- Door and window frames
- Insulation and coverings
- Wood usage in structure (non-combustible)
- Fireproofing
- Penetrations of structural members
- Imbedments
- Heating procedure (fuel location and piping)
- Welding and cutting procedures
- Roofing pots and procedures; roofing materials

Prior to the final inspection, the architect must assure that the project is complete and ready for inspection. Thus, the architect should be the only one who sets up the final inspection, arranging for all the participants to be there. Those who must be in attendance at the final inspection are:

- ▸ Architect
- ▸ General contractor
- ▸ Project engineers

- School district representative
- Fire sprinkler system contractor
- Electrical contractor
- Mechanical contractor
- Fire alarm system contractor
- School District Building Official (SDBO)
- Representative from the State Fire Marshal's office
- Representative from the local fire department
- Building Inspector

A complete walk-through of the entire project is conducted again, checking all items listed for the 70% Completion inspection. An inspection of the fire sprinkler system is conducted noting coverage, and completeness of the riser. Testing is also conducted to insure its function. The fire alarm system is completely checked for operation and adequate coverage. This also includes the twenty-four hour battery test. Emergency lighting and exit signs as well as door operation and hardware are also checked. The mechanical systems are inspected and tested for shut down, exhaust or special function, including fire/smoke dampers. The kitchen hood fire suppression system is also inspected and tested, including the fire alarm tie-in and fuel shut-offs. All special doors—such as roll-up doors, or horizontal folding doors are inspected and tested. Inspectors also check to be sure appropriate certificates—where applicable—have also been obtained.

It is also important that a Key Plan—a flow plan showing the fire zones and the fire sprinkler plan—is installed next to the fire alarm control panel to aid the local fire department if there is a fire in the building.

The State Fire Marshal's office will generate a written final inspection report and send it to the project architect. Fire clearance is only issued after all fire and life safety items previously listed as deficient are resolved appropriately.

The school district must understand that no occupancy is permitted without fire clearance and an appropriate certificate of occupancy issued

i. State Risk Management Plan Reviews

Utah State Risk Management provides school construction plan reviews for:

- Americans with Disability Act (ADA) accessibility.
- Playground equipment safety.

You may contact Risk Management at:

Utah State Risk Management
5120 State Office Building
Salt Lake City, Utah 84114
(801) 538-9597
http://www.risk.state.ut.us/welcome.htm

j. Local Health Department Plan Review

Your local health department provides plan reviews to ensure the new school complies with Administrative Rule R392-200, "Design, Construction, Operation, Sanitation, and Safety of Schools." A copy of R392-200 appears in Appendix F of this resource manual. The State Health Department is also a resource:

Utah State Health Department
Division of Epidemiology & Laboratory Services
Bureau of Food Safety and Environmental Health
288 North 1460 West
Salt Lake City, Utah 84114-2103
(801) 538-6750
http://www.health.state.ut.us/els/envsvc/index.html

BIDDING PROCESS

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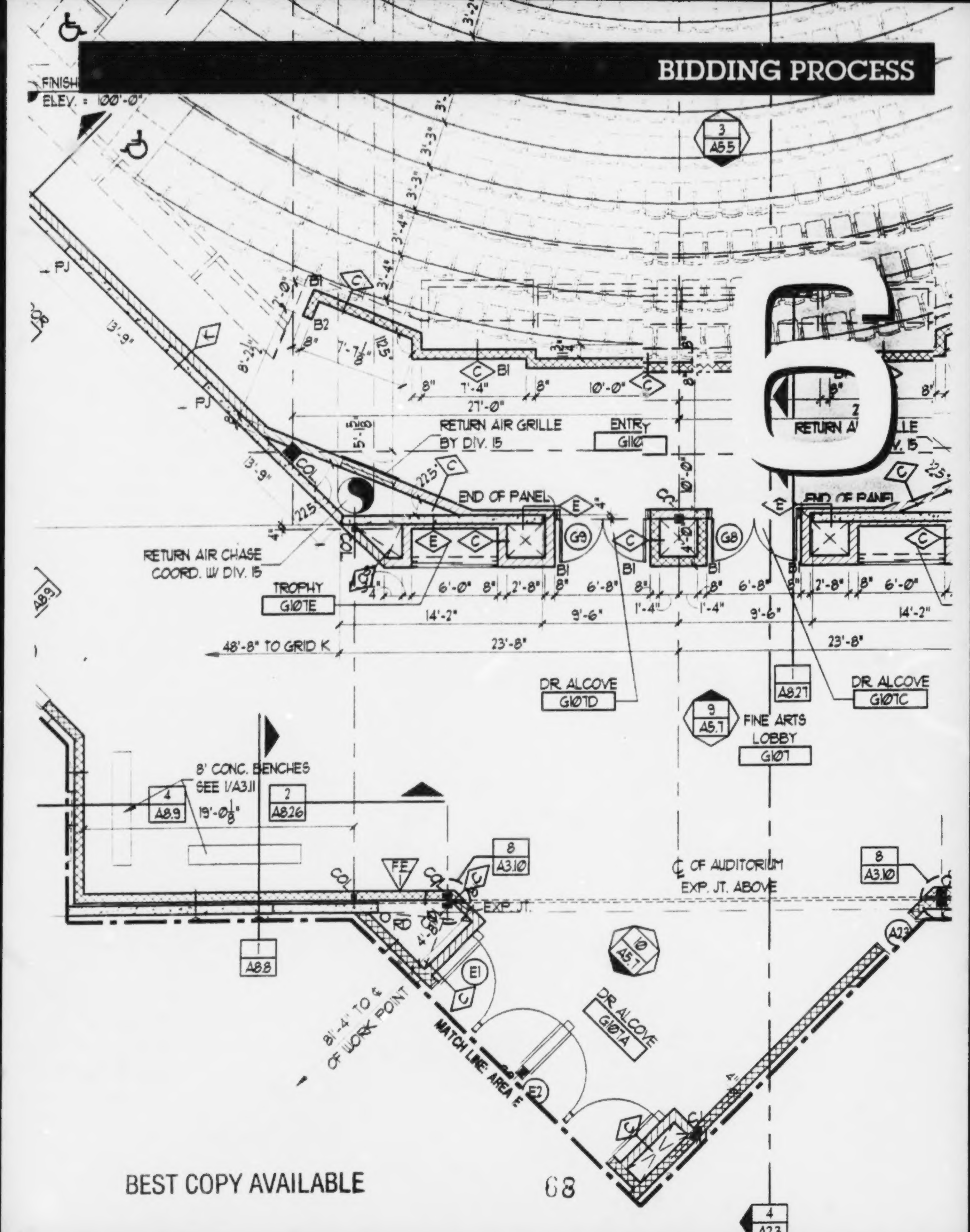

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ELEV. = 100'-0"
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3'-4"
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A5.5
PJ
13'-9"
B1
B2
C
8'-2¼"
8"
7'-7⅛"
12.5°
7'-4"
10'-0"
27'-0"
RETURN AIR GRILLE
BY DIV. 15
ENTRY
G110
COL.
22.5°
END OF PANEL
E
G9
G8
RETURN AIR CHASE
COORD. W/ DIV. 15
TROPHY
G10E
6'-0"
2'-8"
6'-8"
14'-2"
9'-6"
1'-4"
48'-8" TO GRID K
23'-8"
DR. ALCOVE
G10D
A8.27
DR. ALCOVE
G10C
9
A5.7
FINE ARTS
LOBBY
G107
A8.9
8' CONC. BENCHES
SEE 1/A3.11
4
A8.9
19'-0⅛"
2
A8.26
FE
8
A3.10
℄ OF AUDITORIUM
EXP. JT. ABOVE
EXP. JT.
RD
A8.8
10
A5.7
E1
E2
DR. ALCOVE
G10A
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A23
4
A23

BEST COPY AVAILABLE

6. Bidding Process

The bidding process is one of the most important steps in the construction of a new facility or the remodeling of an existing facility. If not done properly, the process can create legal problems that must be resolved prior to beginning construction.

a. Preparation

Prior to bidding, key decisions should have been made. Decisions such as who the design team will be and what type of construction contract will be used should have been determined. Will the project be bid as a Construction Management Contract, Lowest Competitive Bid, Restricted Bidding Contract or other?

Competitive Bidding is the most common for the construction of public buildings. However, Construction Management has been utilized frequently with great success. This allows the owner the option of preselecting a contractor based on qualifications, rather than just on fees. The contractor is then available to assist the architect/engineer and owner in the design and budget process.

If a method other than Lowest Competitive Bid is selected, then it is possible for the owner to prequalify bidders. When prequalifying for public projects, the qualifications usually depend on the final stability of the bidding company and the scope of projects the company has completed in the past. A surety company may also be required to certify that the bidder is capable of bonding for the required dollar amount of the project. An example of the prequalification information for a contractor to submit can be found in American Institute of Architects(AIA) [http://www.aiaonline.com] Document A305.

b. Bid Documents

Bidding documents should include the following:

- Advertisement or invitation to bid.
- Instruction to bidders.
- Bid forms.
- Information of bid security or bond, if required.
- Form of owner-contractor agreement.
- Performance bond, and labor and material payment bond, if required.
- General and any supplementary conditions of the contract.
- Drawings and specifications.
- Any addenda issued prior to the receipt of bids.
- Complete list of Alternates (additive or deductive).

Bid documents should be made available to the bidder in their entirety. Portions of documents can result in inaccurate bids as several documents may contain vital information relating to a particular segment of work needed for an accurate bid. The architect can assist the owner in providing the correct number of documents needed by the contractor to obtain bids.

All plan holders and/or bidders should register with the architect their addresses, phone numbers and contact persons. This information will be used for the purpose of issuing addenda, document tracking and deposit refunding, which are a natural part of the bidding process.

c. Bid Advertisement

For public work, the law requires that bids be advertised twice during ten working days. This is usually done in local newspapers or other publications as determined by school district purchasing agents. It is generally advantageous to the owner to advertise in a bid service such as the Intermountain Contractor, or other bid service publications. The architect should also prepare the bid form for the owner. The form should be concise and filled in completely by the bidder.

d. Deposits

When letting bid documents out to bidders, the owner or architect should collect a deposit to ensure the return and condition of all contract documents. These documents will later be turned over to the successful bidding agent to be distributed to their subcontractors. In the event a bidder does not return the bid documents, their deposit is forfeited. The deposit should approximately equal the amount to reproduce the documents.

e. Addenda

During the bidding period, it is natural for the bidder to have questions regarding the bid documents. Occasionally, the architect or engineer may want to change the documents to reflect the concerns addressed during the bid period. The owner or architect/engineer should never answer a question over the phone unless the answer can be found in the bid documents. All other responses should be in writing and submitted to all plan holders as part of an official addenda. Doing otherwise jeopardizes the bid process and could result in a bidder contesting the bid results.

It is generally good practice to have all addenda issued from the architect. All questions during bidding should also be channeled through the architect as well.

f. Bid Opening

In the public process, all bid openings should be conducted in open meetings. Bidders may be provided with bid tally sheets as provided by the architect. The bids should be read aloud. The receipt of addenda, the presence of the bond and securities and any other irregularities should be noted at this time. Bids received after the date and time set aside for receipt of bids should be returned unopened to the bidder. At the end of the bid opening, it should be stated that this is what the proposals indicate and following evaluation of the bids, the low bidder will be announced.

g. Awarding the Contract

The owner does not have to accept the low bid or any of the bids. However, in rejecting any of the bids, careful consideration should be given and reasons carefully outlined. Once a contractor has been selected, the owner has the right to negotiate with the contractor for changes. If major changes are necessary, the project may need to be rebid. However, this could cause major problems and should be avoided, if possible.

The owner should instruct the apparent low bidder, and possibly the second low bidder, to review his/her bid for accuracy and to submit for review the subcontractors[13] whom the contractor intends to utilize. This can generally be accomplished within 24 hours. This will also prevent the contractor from shopping around for lower subcontractor prices that will not be of benefit to the owner.

h. Bidding Process Summary

The American Institute of Architects (AIA) [http://www.aiaonline.com] has several documents available to assist in the bidding process and should be consulted to obtain the necessary documents. Bidding and Negotiation Document 3.91 was a primary source of information for this reference manual. This, along with AIA Documents A305, and B141, from the Architects Handbook, should be studied when preparing for the bid process. School district architects can help secure these documents. The owner's legal counsel should also be consulted, along with the owner's purchasing departments or those assigned to oversee such procedures.

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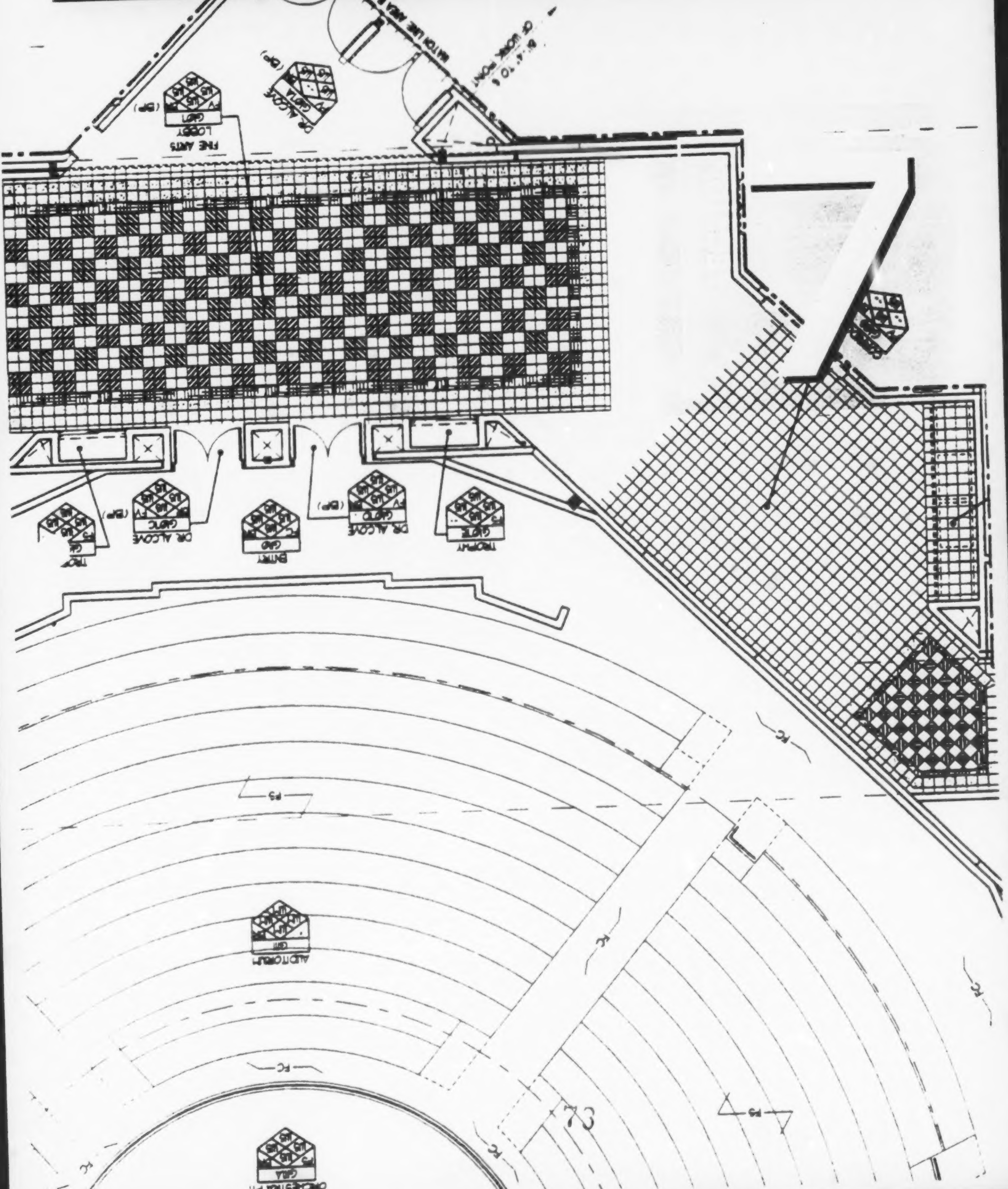
[13] Subcontractors who provide materials or services in excess of $5,000 need only be provided.



FINE ARTS LOBBY
DR. ALCOVE
TROPHY
DR. ALCOVE
ENTRY
DR. ALCOVE
TROPHY
AUDITORIUM
ORCHESTRA PIT

7. Inspection Process

The School District Building Official (SDBO) shall have direct administrative and operational control of all construction and renovation in the district. The SDBO is authorized and directed to enforce all the provisions of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). The SDBO is also responsible for coordinating with local municipalities and the Utah State Office of Education (USOE) to ensure that the appropriate documents are filed on all construction projects exceeding $100,000 in value.

a. Building Code Inspection Guidelines

All construction or renovation that a school district owns or has assumed responsibility for and for which the school district authorizes work shall be subject to inspection by or under the administrative and direct operational control of the local School District Building Official (SDBO). All such construction work shall remain accessible and exposed for inspection purposes until approved by a building inspector appropriately state licensed and certified under provisions of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). In addition, certain continuous inspections as well as structural tests and inspections are required as indicated below.

(1) Required Inspections

Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the appropriate inspector.

Protection of joints and penetrations in fire-resistive assemblies shall not be concealed from view until inspection is approved.

(a) Foundation Inspection

To be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job site, except where concrete is ready mixed in accordance with approved nationally recognized standards, the concrete need not be on the job site. Where the foundation is to be constructed of approved treated wood, additional inspections may be required.

(b) Concrete Slab or Under-Floor Inspection

To be made after all in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

(c) Sheathing and Shear Inspection

To be made after all wall, floor, roof and shear points have been fastened in place as per the required spacing and prior to the installation of any coverings. This inspection is important for the structural integrity of the building as the floor and roof diaphragms work with the vertical elements, such as shear panels, for the transfer of lateral loads to the footing/foundation system. This inspection is currently done by many jurisdictions throughout Utah. At this phase all mechanical hardware should be in place such as hold-downs, straps, bolts, anchors, etc. This is predominately in wood construction. The structural engineer of record should perform a structural observation at this time and verify the construction conforms to his/her design and submit in writing to the School District Building Official (SDBO) that this is the fact.

(d) Frame Inspection

To be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing, and heating wires, pipes and ductwork are approved.

(e) Lath or Gypsum Board Inspection

To be made after all lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

(f) Final Inspection

To be made after finish grading and the building is completed and ready for occupancy.

(2) Special Inspections

In addition to the required inspections identified above, the school district or the project engineer or architect of record acting as the school district's agent shall employ one or more special inspectors who shall provide inspections during construction of the following types of work:

(a) **Concrete**—During the taking of test specimens and placing of reinforced concrete

(b) **Bolts installed in concrete**—Prior to and during the placement of concrete around bolts when stress increases are utilized.

(c) **Special moment-resisting concrete frame**—For moment frames resisting design seismic load in structures within Seismic Zones 3 and 4 (nearly all of Utah), the special inspector shall provide reports to the person responsible for the structural design and shall provide continuous inspection of the placement of the reinforcement and concrete.

(d) **Reinforcing steel and prestressing steel tendons**—During all stressing and grouting of tendons in prestressed concrete. During placing of reinforcing steel and prestressing tendons for all concrete required to have special inspection.

(e) **Structural welding**—During the welding of any member or connection that is designed to resist loads and forces required by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). During the welding of special moment-resisting steel frames. During the welding of reinforcing steel. In addition, nondestructive testing is required.

(f) **High-strength bolting**—The inspection of high-strength A 325 and A 490 bolts shall be in accordance with approved nationally recognized standards and the requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). While work is in progress, the special inspector shall determine that the requirements for bolts, nuts, washers and paint; bolted parts; and installation and tightening in such standards are met. Such inspections may be performed on a periodic basis in accordance with the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). The special inspector shall observe the calibration procedures when such procedures are required by the plans or specifications and shall monitor the installation of bolts to determine that all plies of connected materials have been drawn together and that the selected procedure is properly used to tighten all bolts.

(g) **Structural masonry**—For masonry, other than fully grouted open-end hollow-unit masonry, during preparation and taking of any required prisms or test specimens, placing of all masonry units, placement of reinforcement, inspection of grout space, immediately prior to closing of cleanouts, and during all grouting operations. For fully grouted open-end hollow-unit masonry during preparation and taking of any required prisms or test specimens, at the start of laying units, after the placement of reinforcing steel, grout space prior to each grouting operation, and during all grouting operations.

(h) **Reinforced gypsum concrete**—When cast-in-place Class B Gypsum concrete is being mixed and placed.

(i) **Insulating concrete fill**—During the application of insulating concrete fill when used as part of a structural system.

(j) **Spray-applied fire-resistive materials**—As required by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

(k) **Piping, drilled piers and caissons**—During driving and testing of piles and construction of cast-in-place drilled piles or caissons.

(l) **Shotcrete**—During the taking of test specimens and placing of all shotcrete and as required by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

(m) **Special grading, excavation and filling**—During earth-work excavations, grading and filling operations inspection to satisfy requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

(n) **Smoke-control systems**—During erection of ductwork and prior to concealment for the purposes of leakage testing and recording of device location. Prior to occupancy and after sufficient completion for the purposes of pressure difference testing, flow measurements, and detection and control verification.

(3) Continuous and Periodic Special Inspections

Continuous special inspection means that the special inspector is on the site at all times observing the work requiring special inspections. Some inspections may be made on a periodic basis and satisfy the requirements of continuous inspection, provided this periodic scheduled inspection performed is outlined in the project plans and specifications and approved by the School District Building Official (SDBO).

(4) Approved Fabricators

Special inspections required by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) are not required where the work is done on the premises of a fabricator registered and approved by the School District Building Official (SDBO). The certification of registration shall be subject to revocation by the School District Building Official (SDBO) if it is found that any work done pursuant to the approval is in violation of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). The approved fabricator shall submit a certificate of compliance that the work was performed in accordance with the approved plans and specifications to the SDBO and to the engineer or architect of record. The approved fabricator's qualifications shall be contingent on compliance with the following:

(a) The fabricator has developed and submitted a detailed fabrication procedural manual reflecting key quality control procedures that will provide a basis for inspection control of workmanship at the fabrication plant.

(b) Verification of the fabricator's quality control capabilities regarding the plant and personnel as outlined in the fabrication procedural manual. The verification shall be by an approved inspection or quality control agency.

(c) Periodic plant inspections shall be conducted by an approved inspector or quality control agency to monitor the effectiveness of the quality control program.

(d) It shall be the responsibility of the inspection or quality control agency to notify the approving authority in writing of any change to the procedural manual. Any fabricator approval may be revoked for just cause. Reapproval of the fabricator shall be contingent on compliance with quality control procedures during the past year.

(5) Structural Observations

Structural observation shall be provided in Seismic Zone 3 or 4 when one of the following conditions exist:

(a) The structure is defined as a specific Occupancy Category or other requirements defined by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

(b) When so designated by the architect or engineer of record.

(c) When such observation is specifically required by the School District Building Official (SDBO) or by the special inspector.

The school district shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer or architect responsible for the structural design, to perform structural observation as defined by the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). Observed deficiencies shall be reported in writing to the School District Building Official (SDBO), special inspector, contractor and the building inspector of record. The structural observer shall submit to the School District Building Official (SDBO) and the building inspector of record a written statement that the site visits have been made and identifying any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

(6) Nondestructive Testing

In Seismic Zones 3 and 4, welded, fully restrained connections between the primary members of ordinary moment frames and special moment-resisting frames shall be tested by nondestructive methods for compliance with approved standards and job specifications. This testing shall be a part of the special inspection requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). A program for this testing shall be established by the person responsible for structural design and as shown on plans and specifications.

As a minimum, this program shall include the following:

- All complete penetration groove welds contained in joints and splices shall be tested 100 percent either by ultrasonic testing or by radiography.
- Partial penetration groove welds when used in column splices shall be tested either by ultrasonic testing or radiography when required by the plans and specifications. For partial penetration groove welds when used in column splices, with an effective throat less than 0.75 inch (19.1 mm) thick, nondestructive testing is not required; for this welding, continuous inspection is required.
- Base metal thicker than 1.5 inches (38 mm), when subjected to through-thickness weld shrinkage strains, shall be ultrasonically inspected for discontinuities directly behind such welds after joint completion.

Any material discontinuities shall be accepted or rejected on the basis of the defect rating in accordance with the (larger reflector) criteria of approved national standards.

(7) Prefabricated Construction

Unless otherwise specifically stated, all prefabricated construction and all materials used therein shall conform to all the requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

Prefabricated assembly is a structural unit, the integral parts of which have been built up or assembled prior to incorporation in the building.

(a) **Test of Materials**—Every approval of a material not specifically mentioned in the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) shall incorporate as a proviso the kind and number of tests to be made during prefabrication.

(b) **Tests of Assemblies**—The School District Building Official (SDBO) may require special tests to be made on assemblies to determine their durability and weather resistance.

(c) **Connections**—All prefabricated assemblies must meet the design requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) for connections to buildings.

(d) **Pipes and Conduits**—See the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual) for design requirements for removal of material for pipes, conduit and other equipment.

(e) **Certificate and Inspection**—Materials and the assembly thereof shall be inspected to determine compliance with the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). Every material shall be graded, marked or labeled where required elsewhere in the code.

(f) **Certificate**—A certificate of approval shall be furnished with every prefabricated assembly, except where the assembly is readily accessible to inspection at the site. The certificate of approval shall certify that the assembly in question has been inspected and meets all the requirements of the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual). When mechanical equipment is installed so that it cannot be inspected at the site, the certificate of approval shall certify that such equipment complies with the laws applying thereto.

(g) **Certifying Agency**—To be acceptable under the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual), every certificate of approval shall be issued by an approved agency.

(h) **Field Erection**—Placement of prefabricated assemblies at the building site shall be inspected by the inspector of record to determine compliance with the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual).

(i) **Continuous Inspection**—If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in prefabricated construction.

b. Other Inspection Guidelines: Plumbing, Mechanical, and Electrical

The School District Building Official (SDBO) is also responsible for plumbing, mechanical and electrical inspections in accordance with the International Plumbing Code, the International Mechanical Code, and the National Electrical Code.

(1) Plumbing Inspections

(a) Underground plumbing inspections shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place.

(b) Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing are in place and all sanitary, storm and water distribution piping is roughed-in, and prior to the installation of wall or ceiling membranes.

(c) Final plumbing inspection shall be made after the building is complete, all plumbing fixtures are in place, properly connected and tested for leaks and defects, and the structure is ready for occupancy.

In addition, all new, altered, extended or repaired plumbing work and systems must be successfully tested and observed by the School District Building Official (SDBO) or designee to disclose leaks and defects.

(2) Mechanical Inspections

(a) Underground mechanical inspections shall be made after trenches or ditches are excavated and bedded, piping installed, and before backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be used.

(b) Rough-in inspection shall be made after the roof, framing, fireblocking and bracing are in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(c) Final inspection shall be made upon completion and successful testing of the mechanical system.

(3) Electrical Inspections

(a) Underground electrical inspections shall be made after trenches or ditches are excavated and bedded, wiring installed, and before backfill is put in place.

(b) Rough-in inspection shall be made after the roof, framing, fireblocking and bracing are in place and all wiring and other electrical components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(c) Final inspection shall be made upon completion and successful testing of the electrical system.

c. Foundations and Retaining Wall Inspections and Test

The classification of the soil at each building site must be determined. The School District Building Official (SDBO) may require that this determination be made by an engineer or architect licensed to practice as a soil classifier. The classification must be based on observation and any necessary tests of the materials disclosed by borings or excavations made in appropriate locations. Additional studies may be necessary to evaluate soil strength, the effect of moisture variation on soil-bearing capacity, compressibility, liquefaction and expansiveness.

The soil classification and design-bearing capacity shall be shown on the plans. The School District Building Official (SDBO) may require submission of a written report of the investigation, which should include, but not be limited to, the following information:

- A plot showing the location of all test borings and/or excavations.
- Descriptions and classifications of the materials encountered.
- Elevation of the water table, if encountered.
- Recommendations for foundation type and design criteria, including bearing capacity, provisions to mitigate the effects of expansive soils, provisions to mitigate the effects of liquefaction and soil strength, and the effects of adjacent loads.
- Expected total and differential settlement.

In Seismic Zones 3 and 4, the potential for seismically induced soil liquefaction and soil instability must be evaluated during the geotechnical investigation. The geotechnical report shall assess potential consequences of any liquefaction and soil strength loss, including estimation of differential settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigating measures. Such measures shall be given consideration in the design of the building and may include, but are not limited to, ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements, or any combination of these measures.

When expansive soils are present, the School District Building Official (SDBO) may require that special provisions be made in the foundation design and construction to safeguard against damage due to this expansiveness. The SDBO may also require a special investigation and report to provide these design and construction criteria.

The potential for liquefaction and soil strength loss shall be evaluated for a site peak ground acceleration that, as a minimum, conforms to the probability of exceedance. Peak ground acceleration may be determined based on a site-specific study taking into account soil amplification effects.

Please see Chapter Three "School Facility Site Selection," of this resource manual.

d. Boiler and Pressure Vessel Regulations and Inspection

The Boiler and Pressure Vessel Safety program in Utah has been evolving since 1967. The first milestone occurred on July 1, 1967, when the Utah Legislature enacted the Boiler and Pressure Vessel Act and authorized the State Industrial Commission to administer provisions of the Act. Then, in May 1978, the Utah Boiler and Pressure Vessel Rules and Regulations implemented the requirement that all boilers and pressure vessels installed in Utah after that date to be registered with the National Board of Boiler and Pressure Vessel Inspectors (National Board) [http://www.nationalboard.org] and bear the National Board number. Finally, on July 1, 1997, the State Industrial Commission was replaced by the Utah Labor Commission (ULC) [http://www.labor.state.ut.us/]. Through its Division of Safety, the Utah Labor Commission now enforces the provisions of the Utah Boiler and Pressure Vessel Act (34A-7-101 through 105, Utah Code) and Boiler and Pressure Vessel Rules (Administrative Rule R616-2).

The Utah Boiler and Pressure Vessel Act establishes the minimum standards for installation and operation of boilers and pressure vessels in Utah. The act also authorizes the Labor Commission to adopt rules to enforce the Act. The Boiler and Pressure Vessel Rules clarify boiler pressure vessel requirements. Like the Boiler and Pressure Vessel Act itself, these rules also have the force of law. The Utah Boiler and Pressure Vessel Regulations provide details as to how the ULC Division of Safety has implemented the Utah Boiler and Pressure Vessel Act.

Under provisions of the Utah Boiler and Pressure Vessel Regulations, all new boilers, pressure vessels, water heaters and storage tanks (unless otherwise exempt) must be designed, constructed, inspected, stamped and installed in accordance with the applicable American Society of Mechanical Engineers (ASME) [http://www.asme.org/] Code Section or other codes and standards accepted by the National Board. A copy of the pressure vessel Manufacturer's Data Report, signed by the manufacturer's representative and the National Board authorized inspector, must be filed with the National Board and, when requested, with the Chief Boiler Inspector of Utah.

All boiler and pressure vessel installations, including reinstalled and secondhand boilers and pressure vessels, must be installed in accordance with the requirements of the ASME Code and the Utah Boiler and Pressure Vessel Regulations. Boiler installations must also comply with the Controls and Safety Devices for Automatically Fired Boilers (ASME CSD-1) when the boiler heat input is greater than 400,000 BTU, but less than 12.5 million BTU. Boiler installations with heat input greater than 12.5 million BTU must comply with Standards for the Prevention of Furnace Explosions/Implosions in Single Burner Boilers (National Fire Prevention Association [http://www.nfpa.org/] 8501) or Standards for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers (NFPA 8502) as applicable.

The complete text of the Utah Boiler and Pressure Vessel Regulations appears in Appendix S of this manual.

e. Final Inspection

Prior to the final inspection, the architect must assure that the project is complete and ready for inspection. Thus, the architect should be the only one who arranges for the final inspection, coordinating all the participants to be present. Those who must be in attendance at the final inspection are:

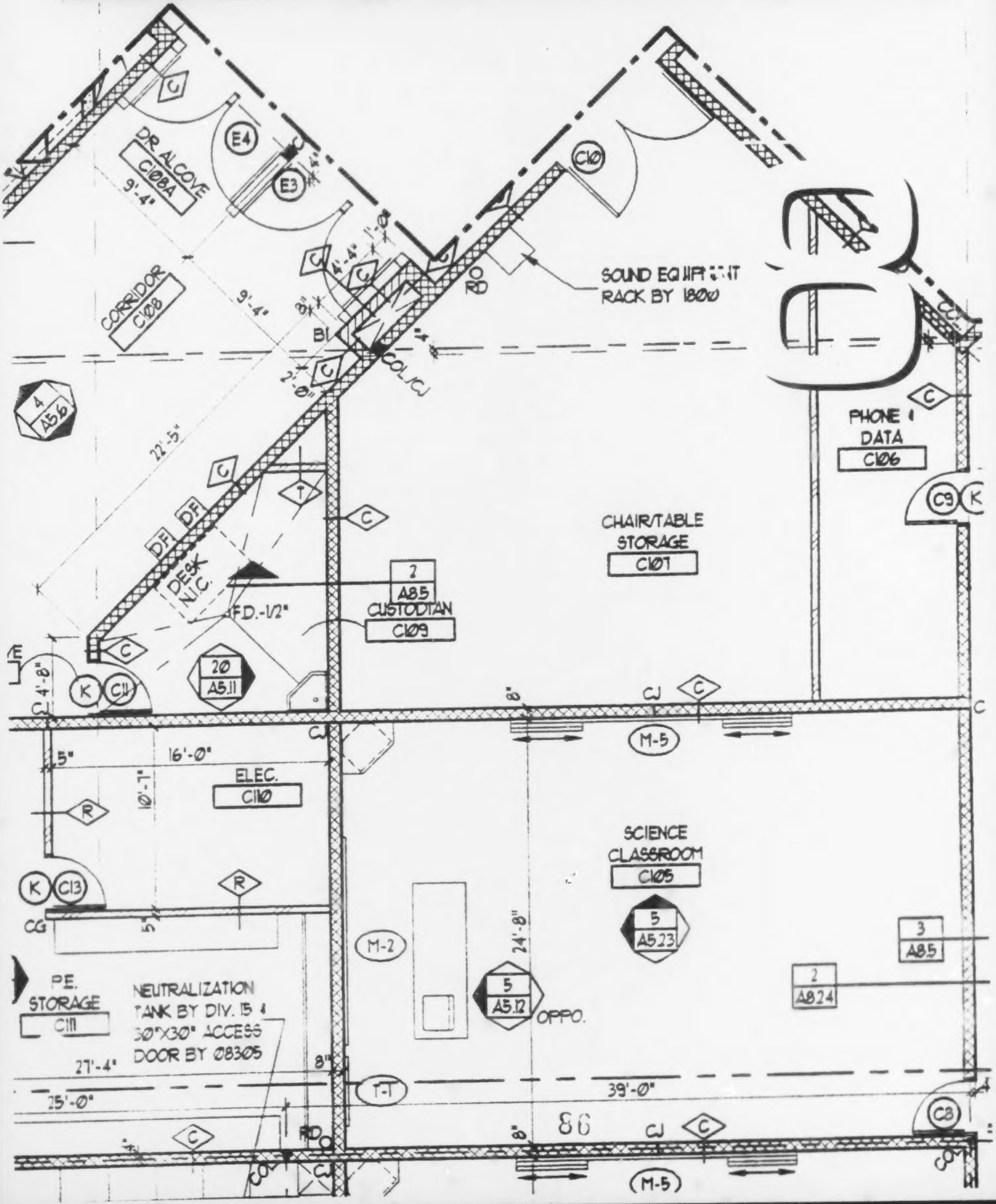
- Architect
- General contractor
- Project engineers
- School District Building Official (SDBO)
- Fire sprinkler system contractor
- Electrical contractor
- Mechanical contractor
- Fire alarm system contractor
- Building Inspector
- Representative from the State Fire Marshal's office
- Representative from the local fire department
- Representative from the local health department

A complete walk-through of the entire project is conducted, checking all items listed for the 70% Completion inspection (see Section 5 "Plan Review/Value Engineering", Subpart g. "State Fire Marshal Inspections"). An inspection of the fire sprinkler system is conducted at this time, noting coverage and completeness of the riser. Testing is also conducted to insure its function. The fire alarm system is completely checked for operation and adequate coverage. This also includes the twenty-four hour battery test. Emergency lighting and exit signs as well as door operation and hardware are also checked. The mechanical systems are inspected and tested for shut down, exhaust or special function, including fire/smoke dampers. The kitchen hood fire suppression system is also inspected and tested, including the fire alarm tie-in and fuel shut-offs. All special doors—such as roll-up doors, or horizontal folding doors—are inspected and tested. Inspectors also check to be sure appropriate certificates, where applicable, have also been obtained.

It is also important that a Key Plan—a flow plan showing the fire zones and the fire sprinkler plan—is installed next to the fire alarm control panel to aid the local fire department if there is a fire in the building.

The School District Building Official (SDBO) and the State Fire Marshal's office will generate a written final inspection report and send it to the project architect. Fire clearance is only issued after all fire and life safety items previously listed as deficient are resolved appropriately.

The school district must understand that no occupancy is permitted without fire clearance and the issuance of an appropriate certificate of occupancy. A copy of the International Conference of Building Officials (ICBO) Building Code Checklist appears in Appendix T of this manual.


DR ALCOVE
C108A
9'-4"
E4
E3
CORRIDOR
C108
9'-4"
C10
SOUND EQUIPMENT
RACK BY 1800
RD
B1
COL/CJ
4
A5.6
22'-5"
2'-0"
DF
DF
DF
DESK
N.I.C.
F.D.-1/2"
T
C
2
A8.5
CUSTODIAN
C109
CHAIR/TABLE
STORAGE
C107
PHONE &
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C106
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C11
4'-8"
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A5.11
8"
CJ
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16'-0"
ELEC.
C110
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C13
CG
SCIENCE
CLASSROOM
C105
5
A5.23
24'-8"
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A8.5
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A8.24
M-2
5
A5.12
OPPO.
P.E.
STORAGE
C111
NEUTRALIZATION
TANK BY DIV. 15 &
30"X30" ACCESS
DOOR BY 08305
27'-4"
25'-0"
8"
T-T
39'-0"
C8
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CJ
M-5
8
C

8. Maintenance and Operation of Buildings

The average age of Utah educational facilities today is somewhere between 30 and 50 years. Some buildings date back to the first decade of this century and are from 80 to 95 years old. School boards, district administrators and school-level administrators must take appropriate action to ensure school and district facilities last as long as possible. School district facility maintenance personnel should be provided the resources they need to maintain district buildings in the best possible condition. Top priority should be given to life-safety issues that protect the occupants of the buildings, followed closely by repairs without which the facility or equipment could be severely damaged. The topics listed below are some of the most critical elements of building maintenance to ensure the safety of occupants and longevity of existing facilities.

a. Indoor Air Quality

The importance of educating and training school district maintenance staff about indoor air quality cannot be overstated. Indoor air quality concerns the safety and welfare of building occupants. Children, teachers and administrators spend over a thousand hours per year in our educational facilities. We must ensure the air they breathe is safe, clean and conducive to a positive learning environment.

However it is organized, indoor air quality monitoring and fundamental improvements should be accomplished in an organized and documented response. It is also important to ensure appropriate resources are dedicated to make the needed repairs as necessary.

A specific indoor air quality program coordinator should be appointed for each school district. This person should be someone in the maintenance department who is responsible, organized and who knows the building and heating, ventilating and air conditioning (HVAC) systems well. The important element of a good indoor air quality maintenance program is to be “proactive” instead of reactive to air quality issues. This will not only improve the indoor air quality in educational facilities, but will also improve the school district legal position and professional image because the district has demonstrated that it is actively trying to minimize or prevent the problems before they occur.

(1) Air Filtration Improvement

The one, single task that is the undisputed foundation of any indoor air quality maintenance program is changing air filters. This is where immediate indoor air quality can be achieved, but unfortunately, this is one particular job that is most often overlooked or neglected.

Maintenance personnel should first identify where each filter is located in each building, and then start and maintain an air filter log to document how long each filter has been in place. Today the bottom line is to cut cost, and understandably, the majority of building owners and maintenance managers still use whatever inexpensive air filter is available. Many times these "cheap" filters are only about 7% efficient, and so 93% of the air contaminants that could have been removed, are just recirculated throughout the building. The most elementary, the most cost effective and the most worthwhile indoor air quality improvement that can be made in most any building is to use at least a 30% pleated air filter, and change them regularly.

School district maintenance personnel can get free local help from their specific air filter professionals. A good contact for information is the National Air Filtration Association at (202) 628-5328. Many local air filtration representatives will be happy to go to schools, look at the different applications, and try to help districts get appropriate filtration systems in place.

(2) Outside Fresh Air Intake, HVAC Air Handlers, and Building Exhaust Systems

The building HVAC system has a direct relationship to building air quality. It must be clean and operating properly. Many times building owners will try to save energy costs by closing the outside fresh air dampers during cold weather. The building will then be in a negative air pressure status and vehicle exhaust, for example, may be pulled into the building from a loading/unloading area. Sometimes an HVAC unit is wet and moldy inside because of improper condensate removal or a defective rooftop exhaust fan goes unnoticed because a related temperature problem in the building cannot be felt.

Maintenance personnel need to check the outside air intake louvers, bird screens, pre-filters, and pre-heat coils for obstructions. In addition, the outside air damper blades, linkage and damper motor need to be checked for proper operation. Also, check for outside air contaminants: is the outside air intake louver near a potential pollution source? Check the building exhaust system: is the fan operating properly (motor, pulleys, bearings, blower wheel)? Any obstructions?

(3) Pollution Source Management

Indoor air quality maintenance personnel need to recognize sources of indoor air pollution that are happening daily. Many times maintenance personnel who understand potential pollution sources can often prevent, minimize, or eliminate the problem easier than it may seem and sometimes at no additional cost to the school district. Keep it simple and use common sense to find and correct problems early when it is easiest to control. Areas of potential pollution include:

- High indoor humidity areas or areas with water damage:
    - stained ceiling tiles

  - visible mold/mildew
  - damp walls or carpet
  - steam or high humidity
  - visible condensation
  - wet basements
- Inadequate exhaust areas:
  - chemical storage areas
  - science or photo labs
  - printing press or machinery
  - welding or soldering areas
  - arts-crafts and paint shops
  - kitchens and loading docks
  - smoking areas
- Occupant activities:
  - food or garbage
  - air fresheners
  - insect sprays
  - portable fuel heaters
- Unoccupied areas and general clean up:
  - mechanical equipment rooms
  - attics and storage rooms
  - ceiling plenums or raised floors
  - crawl spaces and basements
  - utility closets

Being proactive and documenting potential pollution sources can eliminate air pollution before it occurs.

(4) Responding to Occupant Complaints

It is important to follow a step-by-step written procedure for responding to indoor air quality complaints. Far too often these complaints are side-stepped or ignored because the maintenance department does not have a specific department policy in place. Maintenance personnel are not expected to immediately solve all indoor air quality problems, but the department is expected to respond, to document, and to follow through on each call.

Delayed or ignored responses to an indoor air quality complaint can eventually lead to an escalation of problems and additional cost that could have been avoided. To prevent these situations, a simple complaint/response log sheet should be developed. The complaint/response log should contain the following elements:

- Building, area, room
- Who made the complaint and when
- Complete description of the person's concern
- Type if indoor air quality problem:
    - comfort-temperature or humidity problem?
    - too stuffy, no ventilation
    - sudden strange odor
    - is it a new problem or a recurrence?
    - is there a timing pattern?
- Check surrounding area:
    - storage rooms
    - adjacent utility closets
    - look at occupant activities
    - covered vents or thermostats
    - portable fans or heaters
    - overcrowding
    - recent spills or water damage stains
    - new construction or renovations
    - new carpet, wall coverings, painting or new office furniture that could be off-gassing when newly installed
- Check basic air measurements:
    - temperature
    - relative humidity
    - time of day
- Check the basics of the HVAC system
    - is there a control problem? What is the sequence of operation?
    - check the air distribution system—start at the return; check filters, inside the air handler, make sure no dampers are closed; check fire dampers.
    - is there a defective exhaust fan in the area?
    - check the outside fresh air intake location—are there any indications of outside pollutant sources being pulled into the building?
- Keep a record of all related phone calls, dates, meetings, etc.
- If there is a delay in progress, talk to the concerned person and try to keep

them informed. Document the conversations and dates.

- List the order of events and the specific repairs that eventually took place.

It may be possible that the school district may have to call in an outside industry professional. The work that the school district indoor air quality maintenance personnel have done will be valuable to the consultant and the outcome of the solution.

An excellent resource for school districts, available from the Superintendent of Documents at the U.S. Government Printing Office[14], is "Building Air Quality: A Guide for Building Owners and Facility Managers". Included in Appendix U is a copy of a companion publication called "Building Air Quality Action Plan", published by the Environmental Protection Agency (EPA) [http://www.epa.gov/] and the National Institute of Occupational Safety and Health (NIOSH) [http://www.cdc.gov/niosh/homepage.html]. These documents may be helpful to school districts as they develop action plans to deal with indoor air quality.

b. Hazardous Waste

A waste is any solid, liquid, or contained gaseous material that you no longer use, and either recycle, throw away, or store until you have enough to treat or dispose of. School districts may generate wastes that can cause serious problems if not handled and disposed of carefully. Such wastes could:

- cause injury or death; or
- damage or pollute land, air or water.

These wastes are considered *hazardous*, and they are currently regulated by federal and state public health and environment safety laws.

(1) Hazardous Waste Laws, Regulations and Rules

In 1976, the U.S. Congress passed the Resource Conservation and Recovery Act (RCRA) which directed the U.S. Environmental Protection Agency (EPA) to develop and implement a program to protect human health and the environment from improper hazardous waste management practices. The program is designed to control the management of hazardous waste from its generation to its ultimate disposal.

EPA first focused on large companies, which generate the greatest portion of hazardous waste. Business establishments, school districts, and other agencies and institutions producing less than 2,200 pounds of hazardous waste in a calendar month (known as small quantity generators) were exempted from most of the hazardous waste management regulations published by EPA in May 1980.

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[14] "Building Air Quality: A Guide for Building Owners and Facility Managers" is for sale for $24.00 by the U.S. Government Printing Office [http://www.gpo.gov/], Superintendent of Documents, Mail Stop: SSOP, Washington DC 20402-9328 [ISBN 0-16-035919-8]

In recent years, however, public attention has focused on the potential for environmental and health problems that may result from mismanaging even small quantities of hazardous waste. For example, small amounts of hazardous waste dumped on the land may seep into the earth and contaminate underground water that supplies drinking water wells.

In November 1984, the Hazardous and Solid Waste Amendments to RCRA were signed into law. With these amendments, Congress directed EPA to establish new requirements that would bring small quantity generators, who generate between 220 and 2,200 pounds of hazardous waste in a calendar month, into the hazardous waste regulatory system. EPA issued final regulations for these small generators of hazardous waste in March 1986. Most of the requirements became effective in September 1986.

(2) The Hazardous Waste Regulatory System

There are two ways a waste may be brought into the hazardous waste regulator system: *listing*, and identification through *characteristics*.

(a) "Listed" Wastes

School district waste is considered hazardous if it appears on any one of the four lists of hazardous wastes contained in the federal Resource Conservation and Recovery Act (RCRA) regulations. These wastes have been listed because they either exhibit one of the characteristics described below or contain any number of toxic constituents that have been shown to be harmful to health and the environment. The regulations list over 400 hazardous wastes. Many of the listed hazardous wastes that school districts are likely to generate are included in Appendix V of this resource manual.

(b) "Characteristic" Wastes

Even if a waste does not appear on one of the EPA lists, it is considered hazardous if it has one or more of the following characteristics:

- It is easily *combustible or flammable*. This is called an **ignitable** waste. Examples are paint wastes, certain degreasers, or other solvents.
- It *dissolves metals*, other materials, or burns the skin. This is called a **corrosive** waste. Examples are waste rust removers, waste acid, or alkaline cleaning fluids, and waste battery acid.

- It is *unstable* or undergoes rapid or violent chemical reaction with water or other materials. This is called a **reactive** waste. Examples are cyanide plating wastes, waste bleaches, and other waste oxidizers.
- A waste sample is tested and shows *extraction procedure (EP) toxicity.* Wastes are **EP toxic** if an extract from the waste is tested and found to contain high concentrations of heavy metals (such as mercury, cadmium or lead) or specific pesticides that could be released into the ground water.

(3) Material Safety Data Sheets

Material safety data sheets, or MSDS sheets, are a detailed information bulletin prepared by the manufacturer or importer of a chemical that describes the physical and chemical properties, physical and health hazards, routes of exposure, precautions for safe handling and use, emergency and first-aid procedures, and control measures.

Chemical manufacturers and importers must develop an MSDS for each hazardous chemical they produce or import, and must provide the MSDS automatically at the time of the initial shipment of a hazardous chemical to a distributor or user. Distributors also must ensure that downstream employers are similarly provided an MSDS.

Each MSDS must be written in English and include information regarding the specific chemical identity of the hazardous material(s) involved and the common names. In addition, information must be provided on the physical and chemical characteristics of the hazardous chemical; known acute and chronic health effects and related health information; exposure limits; whether the chemical is considered to be a carcinogen by the Occupational Safety and Health Administration (OSHA) [U.S.--http://www.osha.gov/] [Utah --http://www.labor.state.ut.us/uosh/uosha.htm]; precautionary measures; emergency and first-aid procedures; and the identification (name, address, and telephone number) of the organization responsible for preparing the MSDS sheet. Copies of the MSDS for hazardous chemicals in a given work site are to be readily accessible to employees in that area.

(4) Labeling Chemicals

Chemical manufacturers and importers must convey the hazard information they learn from their evaluations to downstream employers by means of labels on containers and material safety data sheets (MSDSs).

In the workplace, each container must be properly labeled, tagged, or marked with the identity of hazardous chemicals contained therein, and must show hazard warnings appropriate for employee protection. The hazard warning can be any type of message, words, pictures, or symbols that provide at least general information regarding the hazards of the chemical(s) in the container and the targeted organs affected, if applicable. Labels must be legible, in English and prominently displayed.

(5) Categories of Hazardous Waste Generators

There are three categories of hazardous waste generators:

- Generators of no more than 220 pounds or 25 gallons per month (also known as conditionally-exempt small quantity generators). Most school districts fall into this category. The federal hazardous waste laws require you to:
    - Identify all hazardous waste you generate.
    - Send this waste to a hazardous waste facility, or a landfill or other facility approved by the state for industrial or municipal wastes. Names of licensed hazardous waste removal companies under state contract are available from the Utah State Purchasing and General Services office at (801) 538-3026 [http://www.purchasing.state.ut.us/].
    - Never accumulate more than 2,200 pounds of hazardous waste on your property. If you do, you become subject to all the requirements applicable to the 220-2,200 pounds per month generators in the next category.
- Generators of 220 to 2,200 pounds or 25 to under 300 gallons of hazardous waste, and no more than 2.2 pounds of acutely hazardous[15] waste in any month. The federal hazardous waste laws require you to:

  Comply with the 1986 rules for managing hazardous waste, including accumulation, treatment, storage, and disposal requirements. This includes:
    - obtaining a U.S. EPA identification number and completing "Notification of Hazardous Waste Activity" forms and "Uniform Hazardous Waste Manifest" forms if shipping hazardous wastes;
    - complying with rules pertaining to managing hazardous waste on-site (storage times, quantities, handling requirements and obtaining proper permits, taking adequate precautions to prevent accidents, and being prepared to handle accidents appropriately);
    - complying with rules for shipping hazardous waste off-site;
    - complying with "good housekeeping" and a safe environment rules.
- Generators of more than 2,200 pounds or 300 gallons or more than 2.2 pounds of acutely hazardous waste in any month. The federal hazardous

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[15] Acutely hazardous wastes are wastes that EPA has determined to be so dangerous in small amounts that they are regulated the same way as are large amounts of other hazardous wastes. Three acutely hazardous wastes have been found in school districts: Arsenic Pentoxide, Arsenic Trioxide and Nicotine.

waste laws require you to comply with ***all*** applicable hazardous waste management laws and rules of the Resource Conservation and Recovery Act as amended in November 1984 as well as final regulations effective September 1986.

To determine which category of hazardous waste generator your school district falls into—and what requirements you must meet—you must measure or "count" the hazardous wastes your school district generates in a calendar month. The total weight will determine your generator category. The table on the next page summarizes the kinds of wastes you must count and wastes you do not count when you determine your generator status.

Counting Your Hazardous Waste

Do Count These	**Do Not Count These**
You **do** count all quantities of "listed" or "characteristic" hazardous wastes that you: ▸ Accumulate on-site for any period of time prior to subsequent management. ▸ Package and transport off-site ▸ Place directly in a regulated on-site treatment or disposal unit. ▸ Generate as still bottoms or sludges and remove from product storage tanks.	You **do not** have to count wastes that: ▸ Are specifically exempted from counting. Examples of these exempted wastes are: • spent lead-acid batteries that will be sent off-site for reclamation. • used oil that has not been mixed with hazardous waste. ▸ May be left in the bottom of containers that have been completely emptied through conventional means, for example, by pouring or pumping.[16] ▸ Are left as residue in the bottom of product storage tanks, if the residue is not removed from the product tank. ▸ You reclaim continuously on-site without storing the waste prior to reclamation. ▸ You manage the waste in an elementary neutralization unit, a totally enclosed treatment unit, or a wastewater treatment unit. An elementary neutralization unit is a regulated tank, container, or transport vehicle which is designated to contain and neutralize corrosive wastes. ▸ Are discharged directly to a publicly-owned treatment works (POTW) without being stored or accumulated first. This discharge to a POTW must comply with the Clean Water Act. POTWs are public utilities, usually owned by the city or county, that treat industrial and domestic sewage for disposal. ▸ You have already counted once during the calendar month, and treated on-site or reclaimed in some manner, and used again.

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[16] Containers that held an acute hazardous waste must be more thoroughly cleaned.

(6) Typical Waste Materials in School Districts

School districts typically generate hazardous wastes from applied technology shops, science laboratories and facility and vehicle cleaning and maintenance activities. These areas may generate the following types of hazardous wastes:

- Acids/Bases

  Acids, bases, or mixtures having a pH less than or equal to 2 or greater than or equal to 12.5, are considered corrosive (for a complete description of corrosive wastes, see 40 CFR 261.22, Characteristics of Corrosivity). The following are some of the more commonly used corrosives found in school districts:

  - Acetic Acid
  - Ammonium Hydroxide
  - Chromic Acid
  - Hydrobromic Acid
  - Hydrochloric Acid
  - Hydrofluoric Acid
  - Ni/Cad Batteries
  - Nitric Acid
  - Oleum
  - Perchloric Acid
  - Phosphoric Acid
  - Potassium Hydroxide
  - Sodium Hydroxide
  - Sulfuric Acid

- Heavy Metals/Inorganics

  Heavy metals and other inorganic waste materials exhibit the characteristics of EP (extraction procedure) Toxicity and are considered hazardous if the extract from a representative sample of the waste has any of the specific constituent concentrations as shown in 40 CFR 261.24, Table 1. This may include dusts, solutions, wastewater treatment sludges, paint wastes, waste inks, and other such materials which contain heavy metals/inorganics. The following are some of the more commonly used heavy metals/inorganics found in school districts:

  - Arsenic
  - Barium
  - Chromium
  - Lead
  - Mercury
  - Silver

- Ignitable Wastes

  Ignitable wastes include any liquids that have a flashpoint less than 140 degrees Fahrenheit, any non-liquids that are capable of causing a fire through friction, absorption of moisture, or spontaneous chemical change, or any ignitable compressed gas as described in 49 CFR 173.300 (for a complete description of ignitable wastes, see 40 CFR 261.21, Characteristics of Ignitability). Examples are spent solvents, solvent still bottoms, ignitable paint wastes (paint removers, brush cleaners and stripping agents), epoxy resins and adhesives (epoxies, rubber cements and marine glues), and waste inks containing flammable solvents. The following are some of the more commonly used ignitable wastes found in school districts:

- Acetone
- Benzene
- Cyclohexanone
- Diesel Fuel
- Ethyl Acetate
- Gasoline
- Methanol
- Oil Based Paints with lead
- Paint Related Materials
- Petroleum Distillates
- Roofing Tar

- Pesticides

  The pesticides listed below are hazardous. Wastes marked with an asterisk (*) have been designated *acutely hazardous*. For a more complete listing, see 40 CFR 261.32 and 261.33 for specific listed pesticides, and other wastes, wastewaters, sludges, and by-products from pesticide formulators. The following are some of the more commonly used pesticides found in school districts:

  - *Arsenic Pentoxide
  - *Arsenic Trioxide
  - Decon
  - DDT
  - *Endrin
  - *Nicotine
  - *Strychnine
  - Acetic Acid

- Reactives

  Reactive wastes include reactive materials or mixtures which are unstable, react violently with or form explosive mixtures with water, generate toxic gases or vapors when mixed with water (or when exposed to pH conditions between 2 and 12.5 in the case of cyanide or sulfide bearing wastes), or are capable of detonation or explosive reaction when heated or subjected to shock (for a complete description of reactive wastes, see 40 CFR 261.23, Characteristics of Reactivity). The following are some of the more commonly used reactives found in school districts:

  - Acetyl Chloride
  - Chromic Acid
  - Cyanides
  - Hypochlorites
  - Organic Peroxides
  - Perchlorates
  - Permanganates
  - Sulfides

- Solvents

  Solvents, spent solvents, solvent mixtures, or solvent still bottoms are often hazardous. This includes solvents used in degreasing and paint brush cleaning and distillation residues from reclamation. See also 40 CFR 261.31 for most listed hazardous waste solvents. The following are some of the more commonly used solvents found in school districts:

  - Benzene
  - Carbon Tetrachloride
  - Ethanol
  - Isobutanol
  - Kerosene
  - Methyl Ethyl Ketone
  - Naphtha
  - Nitrobenzene
  - Petroleum Solvents (Flashpoints less than 140 degrees F)
  - Toluene
  - White Spirits

- Lead-Acid Batteries

  Used lead-acid batteries should be reported on the notification form *only* if they are not recycled. Used lead-acid batteries that *are* recycled do not need to be counted in determining the quantity of waste you generate per month, nor do they require a hazardous waste manifest when shipped off your premises. The following are some of the more commonly used lead-battery products found in school districts:

  - Lead Dross
  - Spent Acids
  - Lead-Acid Batteries

(7) Managing Hazardous Waste On-Site

The three most important things you should know about managing your hazardous wastes on-site are:

- Comply with storage time, quantity, and handling requirements for containers and tanks.
- Obtain a storage, treatment, or disposal permit if you store, treat, or dispose of your hazardous waste on-site in a manner requiring a permit.
- Take adequate precautions to prevent accidents, and be prepared to handle them properly in the event that they do occur

(a) Storing Hazardous Waste On-Site

You may store no more than 13,200 pounds of hazardous waste on your site for up to 180 days, or for up to 270 days if the waste must be shipped to a treatment, storage, or disposal facility that is located over 200 miles away. If you exceed these time or quantity limits, you will be considered a storage facility and you must obtain a storage permit and meet all of the Resource Conservation and Recovery Act (RCRA) storage requirements. You are allowed to store your waste for as long as 180 or 270 days so that you will have time to accumulate enough hazardous waste to ship it off-site for treatment or disposal economically.

You can store hazardous waste in 55-gallon drums, tanks, or other containers suitable for the type of waste generated if you follow certain common sense rules that are meant to protect human health and the environment, and reduce the likelihood of damages or injuries caused by leaks or spills of hazardous wastes. If you store your hazardous waste in **containers**, you must:

- Clearly mark each container with the words:

  "HAZARDOUS WASTE"

  and with the date you began to collect waste in that container.
- Keep containers in good condition, handle them carefully, and replace any leaking ones.
- Not store hazardous waste in a container if it may cause rupture, leaks, corrosion, or other failure.
- Keep containers closed except when you fill or empty them.
- Inspect the container for leaks or corrosion every week.
- Make sure that if you are storing ignitable or reactive wastes, containers are placed as far as possible from your facility property line to create a buffer zone to surrounding properties.
- NEVER store wastes in the same container that could react together to cause fires, leaks, or other releases.
- Make sure that the stored waste is taken off-site or treated within 180 or 270 days.

If you store your waste in **tanks**, you must follow similar common sense rules:

- Do not store hazardous waste in a tank if it may cause rupture, leaks, corrosion, or otherwise cause the tank to fail.
- Keep the tank covered or provide at least two feet of space at the top of the tank in uncovered tanks.
- If your tanks have equipment that allow the waste to flow into them continuously, provide waste feed cutoff or bypass systems to stop the flow

in case of problems.

- Inspect any monitoring or gauging systems on each operating day and inspect the tanks themselves for leaks or corrosion every week.
- Use the National Fire Protection Association's (NFPA) buffer zone requirements for tanks containing ignitable or reactive wastes. These requirements specify distances considered as safe buffer zones for various liquids based on the characteristics of all combustible and flammable liquids.

(b) Preparing for and Preventing Accidents

Whenever you generate hazardous waste and store it on-site, you must take the precautions and steps necessary to prevent any sudden or accidental release to the environment. This means that you must carefully operate and maintain your facility to reduce the possibility of fire, explosion, or release of hazardous waste.

Your district facilities must have appropriate types of emergency communication and fire equipment for the kinds of waste handled. You must also attempt to make arrangements with local fire, police, or hospital officials as needed to ensure that they will be able to respond to any potential emergencies that could arise. Some of the steps you may need to take to prepare for emergencies at school district sites may include:

- Installing and maintaining emergency equipment such as an alarm, a telephone or a two-way radio, fire extinguishers (using water, foam, inert gas, or dry chemicals as appropriate to your waste type).
- Providing enough room for emergency equipment and response teams to get into any area in your district in the event of an emergency.
- Communicating with local fire, police and hospital officials or state or local emergency response teams explaining the types of wastes you handle and asking for their cooperation and assistance in handling emergency situations.
- Emergency phone numbers and locations of emergency equipment must be posted near telephones. Employees must know proper waste handling and emergency procedures.
- You must appoint an employee to act as an emergency coordinator to ensure that emergency procedures are carried out in the event of an emergency.
- If you have a serious emergency and you have to call your local fire department or you have a spill that could reach surface waters, you must immediately call the National Response Center at (800) 424-8802 and give them the information they ask for. If you call them and didn't need to call, they will tell you so. But anyone who was supposed to call and does not is subject to a $10,000 fine, a year in jail, or both. If you fail to report a release

you may also be required to pay for the entire cost of repairing any damage.

(c) "Good Housekeeping" and a Safe Environment

Good hazardous waste management can be thought of as simply using "good housekeeping" practices such as: using and reusing materials as much as possible; recycling or reclaiming waste; treating waste to reduce its hazards; or reducing the amount of waste you generate.

The three most important things you should remember about managing your wastes properly are:

- Reduce the amount of your hazardous waste whenever you can:
    - Do not mix nonhazardous wastes with hazardous ones.
    - Avoid mixing several different hazardous wastes. Doing so may make recycling very difficult, if not impossible, or make disposal more expensive.
    - Avoid spills or leaks of hazardous products. Remember that the materials used to clean up spills or leaks also become hazardous.
    - Make sure the original containers of hazardous products are completely empty before you throw them away. Use ALL the product.
    - Avoid using more of a hazardous product than you need. For example, use no more degreasing solvent or pesticide than you need to do the job.
- Conduct your own self-inspection. The best way to prepare for a visit from an inspector is to conduct your own self-inspection. Make sure you can answer correctly the following questions:
    - Do you have some documentation on the **amounts** and **kinds** of hazardous waste you generate and on how you determined that they are hazardous?
    - Do you have a **U.S. EPA Identification Number**, if required?
    - Do you **ship** waste **off-site**? If so, by which **hauler** and to which **designated hazardous waste management facility**?
    - Do you have copies of **manifests** used to ship your hazardous waste off-site? Are they filled out correctly? Have they been signed by the designated facility?
    - Is your hazardous waste stored in the **proper containers**?
    - Are the containers properly **dated** and **marked**?
    - Have you designated a school district **emergency coordinator**?
    - Have you posted **emergency telephone numbers** and the location of **emergency equipment**?

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- Are all your **employees** thoroughly **familiar** with proper waste handling and emergency procedures?
- Do you understand when you may need to contact the **national response center**?

- Cooperate fully with local, state and federal inspectors.

(8) When You Need Help

If you need help:

- call your local fire department,
- the State Fire Marshal's office:

Utah State Fire Marshal
5272 South College Drive, Suite 302
Murray, Utah 84123-2611
(801) 284-6350
http://www.fm.state.ut.us/

- the State Division of Air Quality:

Utah Department of Environmental Quality
Division of Air Quality
150 North 1950 West
Salt Lake City, Utah 84114
(801) 536-4000
http://www.eq.state.ut.us/eqair/aq_home.htm

- the Utah state hazardous waste management agency:

Utah Department of Health
Bureau of Solid and Hazardous Waste Management
P.O. Box 16700
Salt Lake City, Utah 84116-0700
(801) 538-6170
http://www.health.state.ut.us/

- the U.S. EPA Denver Region office: EPA Region VIII

Waste Management Division (8HWM-ON)
One Denver Place
999 18th Street, Suite 1300

Denver, Colorado 80202-2413
(303) 293-1502
http://www.epa.gov/region08/cross/cbep/cbep.html

c. Legal Liability in Building Maintenance and Operations

All staff who are in any way involved in the operations and maintenance of educational facilities need to be aware that accidents and other mishaps that occur in school buildings, facilities, or on school grounds may result in lawsuits against the school district. As part of these lawsuits employees may be named as parties to the lawsuits or, at a minimum, they will be involved as witnesses in the lawsuit process. In most of these actions plaintiff's attorney will try to prove that the school district and it employees were negligent; and through this negligence the client was injured. Throughout this manual you have been told about issues, or problems that affect the operation of schools that can be identified through a self inspection. The concept behind a self inspection is one of identifying potential problems and dealing with them before they injure someone, or create a situation that leads to prolonged litigation.

It is important for those involved in the process of self inspection and the maintenance of school property and buildings to understand how the law works in situations involving physical problems with educational facilities and grounds. School districts have a basic responsibility to provide a safe location for students and others who visit or otherwise utilize the facilities. If someone is injured while using the facility, and it is determined that their injury is related to or caused by a problem of which school district personnel were aware or should have been aware of but failed to correct, liability may be imputed to the school district. "Translated into English" this means if staff are aware of a problem like a trip and fall hazard—such as a piece of pipe sticking up on the playground, or broken glass under a swing set, or a pool of water on a slick floor—and do nothing to correct the problem, the school may be held liable if someone is injured. The courts have established a "knew or reasonably should have known" standard for determining liability. If school personnel knew about the problem, or reasonably should have known, and did nothing to correct the problem then the school district may be successfully sued. School districts will not be held liable for everything that possibly could occur, but they may be held liable for those things that were known and could have been corrected but were not.

Facilities staff have a special duty to find and address these problems before they become legal liabilities for the school and the school district. Self inspection tools provide a handy way of finding problems before they become liabilities. Many of the self inspection documents in use today are designed to point out specific problems that have been identified as potential liabilities. Many of the issues or subjects addressed in the self inspections have been the subject of lawsuits in the past. In addition, many of the issues addressed in the documents are areas or subjects addressed by various federal laws or rules. Occupational Safety and Health Administration (OSHA) requirements, hazardous waste management, and other safety guidelines and rules established by federal and state agencies are also addressed in self inspection documents. When one of these rules is violated and someone is injured, the fact that the agency was in violation of the rules or standard will be used in court to prove guilt.

The self inspection process allows schools to find or anticipate problems before they become liability issues. If properly used, self inspection documents provide a list of problems that can be prioritized and then addressed in a logical order. By using the self inspection process school districts are able to show that they are interested in providing a safe location for their patrons. Once the inspections are done however, the school district must act to address the problems. This must be done in a timely and proper manner. Doing self inspections and then addressing the identified problems is one of the ways schools can avoid legal liability.

For more information, contact State Risk Management at (801) 538-9560 [http://www.das.state.ut.us/Divisions/Risk/risk.html].

d. Graffiti Removal and Prevention

Graffiti on school facilities lessens the educational climate and attracts more graffiti and vandalism. Graffiti should be removed completely and as soon as possible when it occurs. Removing graffiti quickly and completely sends a message to the individuals who created the "art work" or "tag" on the buildings, signs, asphalt/concrete surfaces, or whatever object at the facility that this school will not tolerate such behavior and will take swift action to remove it completely. The converse is also true; if graffiti is not removed quickly and completely, it attracts additional graffiti—much like one or two broken windows in a building invites more windows to be broken and more vandalism. Inaction sends the message "we don't care about this facility."

School personnel should also take photographs of all graffiti "tags" and share the photos with district security personnel as well as local police. This may help in locating the perpetrators or to document a pattern that could lead law enforcement personnel to those who committed the crime.

A combination of physical scrubbing, pressure and power washing with chemical solvents can usually remove most graffiti. Specialized graffiti cleaning solvents and washers are available from commercial suppliers. Care must be taken to protect maintenance employees when using chemical and mechanical cleaning methods. Personal protection equipment is required. Follow the instructions provided by the manufacturer of the solvent and washer. Chemicals that are organic or biodegradable are preferred.

e. Radon Gas

Radon is a natural radioactive gas formed by the decay of uranium in the earth's soil. It is tasteless, odorless and invisible. Eventually it works its way to the surface through cracks in the earth's surface and through porous soil. Diluted into the outdoor atmosphere, radon gas poses little danger because of the high ratio of air to radon.

(1) Health Risks of Radon

Radon seeps through gaps in the foundation or insulation and is trapped in the confined areas of a building. Long term exposure to radon under these conditions has been associated with an increased risk of lung cancer. The U.S. Environmental Protection Agency (EPA) estimates that radon is responsible for up to 15,000 deaths annually.

(2) Radon Detection

Because radon gas is odorless, tasteless and invisible, nonscientific equipment is needed for detection. There are two basic detectors for measurements:

- a charcoal device and,
- an alpha-track detector.

A charcoal device can be placed in a section of a school building for three to four days. It is then returned to the manufacturer for analysis. An alpha-track detector is placed in the building from two weeks to three months (or longer), before being returned to a laboratory for examination. Long-term testing averages the exposure to radon gas levels over a period of time. This gives a more conclusive test result. There are other techniques requiring operation by trained personnel which can be used to measure radon levels. Call State Risk Management at (801) 538-9578 for assistance.

(3) Reducing High Levels of Radon

Corrective actions can often be quick and inexpensive. In some cases, the following steps will help to lower dangerous levels of radon gas or prevent it from entering school facilities:

- Ventilate the school buildings. Open windows or doors (natural ventilation) or use ventilation systems (forced ventilation)—for example, fans, air exchange ventilators, etc.—to increase air flow whenever possible.

- Make sure all crawl space vents are open and clear.
- Seal cracks in foundations, along basement walls, floors or moldings.
- Seal loose-fitting pipes as they penetrate foundations and walls.
- Vent sump pumps.
- Paint basement floors and walls with a sealing paint.
- Ventilate sub slabs, if possible.

Contact State Risk Management at (801) 538-9578 for more detailed information on radon and radon abatement procedures.

f. Asbestos Removal/Containment

The word "asbestos" is derived from the Greek language. The Greeks admired the "miracle mineral" because of its softness and flexibility and its ability to withstand heat. The Greeks used asbestos much like cotton, spinning and weaving it into cloth. Asbestos was not widely available anywhere in the world until the late 1800's, when major deposits were found in Canada. Thereafter, asbestos was used to make thermal insulation for boilers, pipes, and other high-temperature applications, and was also used as a fireproofing and reinforcement material. During World Wars I and II, the military used asbestos extensively in ships and other applications. Commercial usages of asbestos in buildings increased thereafter, but growing concerns about the health risks associated with asbestos exposure resulted in a voluntary reduction in the use of asbestos beginning in the 1970's.

(1) Characteristics of Asbestos

Asbestos is comprised of a group of natural minerals. Unlike other minerals, however, the crystals of asbestos form long, thin fibers. Asbestos deposits are found throughout the world, but the primary sites of commercial asbestos production are Canada, Russia, and South Africa. Commercial mining of asbestos in the United States was halted in the 1980's.

Once extracted from the earth, asbestos-containing rock is crushed, and grated. This produces long, thread-like fibers of material. What appears to the naked eye as a single fiber is actually a bundle of hundreds or thousands of fibers, each of which can be divided even further into tiny fibers (fibrils), invisible without the aid of a microscope.

Asbestos materials are divided into two groups: serpentine and amphibole. All asbestos in the serpentine group is called Chrysotile. This is the most common type of asbestos found in buildings in the United States, accounting for approximately 95 percent of the asbestos found in our nation's buildings. It is commonly known as "white asbestos" because of its natural color.

The amphibole group contains five types of asbestos. Amosite, the second most common type of asbestos found in buildings in the United States, is often referred to as "brown asbestos" for the color of the natural mineral. Crocidolite, or "blue asbestos" has been used in high-temperature insulation products and on chemical resistant surfaces, such as laboratory tables for chemistry and biology classes (upon occasion, the custodial staff will drill holes in table tops for new fixtures without realizing that the material may contain crocidolite. The remaining three types of asbestos in the amphibole group are Anthophyllite, Tremolite, and Actinolite—and are rare and have little commercial value. They are occasionally found as contaminants or minor constituents in asbestos-containing materials.

(2) Uses of Asbestos

Asbestos has been used in thousands of products, largely because it is plentiful, readily available, cheap, strong, does not burn, conducts heat and electricity poorly, and is resistant to chemical corrosion. Products made with asbestos are often referred to as Asbestos-Containing Materials (ACM).

Asbestos has proved particularly useful in the construction industry. Building materials that contain asbestos are referred to as Asbestos-Containing Building materials (ACBM). Commercial usage of asbestos products in the construction industry was most common from about 1945 to 1980. Some of the most common uses of ACBM include:

- Fire proofing material—usually spray-applied to steel beams used in construction of multi-story buildings to prevent structural members from warping or collapsing in the event of fire.
- Insulation material—usually spray-applied, trowel-applied, or manually installed after being preformed to fit surfaces such as pipes for thermal insulation and condensation control.
- Acoustical or Soundproofing material—trowel- or spray-applied. May also be used for decoration. Asbestos was mixed with other materials and sprayed onto ceilings and walls to produce a soft, textured look.
- Miscellaneous materials—asbestos has been added to asphalt, vinyl, cement and other materials to make products like roofing felts, exterior siding and roofing shingles, wallboard, pipes for water supply, combustion vents, and flues for waste gases and heat. Fibers in asbestos cement, asphalt, and vinyl materials are usually firmly bound into materials in good

condition and typically will be released only if the material is damaged mechanically—for example through drilling, cutting, grinding, or sanding. In addition, asbestos in roofing shingles and siding exposed to weathering may slowly deteriorate and has the potential to release fibers.

Examples of the more common ACBM found in schools are flooring, vinyl base, mastic, roofing materials, gaskets in heating and air-conditioning equipment, ceiling panels and tiles, wallboard, joint compound, plaster, pipe and boiler insulation, duct-wrap insulation, duct joint tape, duct vibration dampening cloth, fireproofing on structural members, fire brick for boilers, fire doors, acoustical spray-on, cement pipes, and panels.

(3) Friable vs. Non-Friable ACBM

Friable ACBM will release fibers into the air more readily than non-friable ACBM. Therefore, the Asbestos Hazardous Emergency Response Act (AHERA) Rule differentiates between friable and non-friable ACBM. The regulations define friable ACBM as material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry. Friable ACBM also includes previously non-friable material when it becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure. Undamaged non-friable ACBM should be treated as friable if any action performed on the material will make it friable.

(4) Categories of Asbestos-Containing Building Materials

EPA identifies three categories of ACBM:

- Surfacing Materials—Interior ACBM that has been sprayed on, troweled on or otherwise applied to surfaces (structural members, walls, ceilings, etc.) for acoustical, decorative, fireproofing, or other purposes. This includes acoustical plaster, hard plasters (wall or ceiling), fireproofing insulation, spray-applied or blown-in thermal material, joint or patching compound (wall or ceiling), and textured paints or plasters.
- Thermal System Insulation—Insulation used to control heat transfer or prevent condensation on pipes and pipe fittings, boilers, breeching, tanks, ducts, and other parts of hot and cold water systems; heating, ventilation, and air conditioning (HVAC) systems; or other mechanical systems. These insulation material include pipe lagging, pipe wrap, HVAC duct insulation, block insulation, cements and muds, and a variety of other products such as gaskets and ropes.
- Miscellaneous Materials—Other, mostly non-friable products and materials found on structural components, structural members or fixtures, such as floor tile, ceiling tile, construction mastic for floor and ceiling materials, sheet flooring, fire doors, asbestos cement pipe and board, wallboard, acoustical wall tile, and vibration damping cloth. "Miscellaneous materials" do not

include thermal system insulation or surfacing materials.

(5) Summary Key Points About Asbestos

These are some important terms used in the AHERA Rule. The designated AHERA person at each school district should be especially familiar with the following:

- Asbestos-Containing Material (ACM)— Any material or product that contains more than one percent asbestos.
- Asbestos-Containing Building Material (ACBM)—Surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.
- Friable ACBM—Material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry. Friable ACBM also includes previously non-friable material when it becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.
- Non-friable ACBM—Material that, when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure.
- Surfacing ACM—Interior ACM that has been sprayed on, troweled on, or otherwise applied to surfaces (structural members, walls, ceilings, etc.) for acoustical, decorative, fireproofing, or other purposes.
- Thermal System ACM—Insulation used to control heat transfer or prevent condensation on pipes and pipe fittings, boilers, breeching, tanks, ducts, and other parts of hot and cold water systems; heating, ventilation, and air-conditioning (HVAC) systems; or other mechanical systems.
- Miscellaneous ACM—Other, mostly non-friable, products and materials (found on structural components, structural members or fixtures) such as floor tile, ceiling tile, construction mastic for floor and ceiling materials, sheet flooring, fire doors, asbestos cement pipe and board, wallboard, acoustical wall tile, and vibration damping cloth.
- Undamaged non-friable ACBM should be treated as friable if any action performed would render these materials friable. When previously non-friable ACBM becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure, it should be treated as friable.

(6) Asbestos Health Risks

The health effects associated with asbestos exposure have been studied for many years. Results of these studies show that inhalation (breathing in) of asbestos fibers leads to increased risk of developing several diseases. Exactly why some people develop these diseases remains a mystery, but it has been well demonstrated that most asbestos-related illnesses are dose-response related—that is, the greater the exposure to airborne asbestos fibers, the greater the risk of developing an illness.

(a) Relative Hazards of Asbestos Exposure

Almost daily, we are exposed to some prevailing level of asbestos fibers in buildings or experience some existing level in the outdoor air. Some fibers that are inhaled remain in the lungs. Brief "bursts" of exposure, when added to the background level, increase the potential to cause or trigger the development of an asbestos-related disease. These brief bursts of exposure occur in many ways. For example, when a carpenter drills a hole in an asbestos fire door without taking any precautions, an increased amount of asbestos may be released into the air. The more often these bursts of exposure occur, the greater the risk of breathing asbestos fibers. People most at-risk for this additional exposure are maintenance and construction workers who work on and disturb asbestos in buildings. This clearly demonstrates the need for an active asbestos policy and an ongoing operations and plan for buildings that contain ACBM.

It is important to recognize that the majority of people who have developed diseases because of asbestos exposures are former asbestos workers. These workers were frequently exposed to high levels of asbestos fibers each working day, with little or no protection. Today's asbestos maintenance workers and AHERA-trained asbestos abatement workers are trained to follow specific work practices and wear appropriate protection, including respirators, to minimize the risk of exposure. However, increased risk may occur when a worker who does not use a respirator or follow specific work practices disturbs any ACBM.

(b) The Respiratory System

The effects of asbestos exposure most often involves the lungs. Air breathed into the body passes through the mouth and nose, continuing into the windpipe. The windpipe divides into smaller and smaller tubes that end up in the lungs as air sacs called alveoli. It is in these air sacs that respiration occurs. Oxygen is absorbed into tiny blood vessels (or capillaries), and waste gases, such as carbon dioxide, pass out of the blood and are exhaled.

The body has several mechanisms to "filter" the air it breathes. First, large particles are removed in the nose and mouth. Many smaller particles are caught on the mucus-coated walls of the airway tubes. These airways have "hairy" linings (ciliate cells) that constantly propel mucus upward. Particles caught in the mucus are swept up into the back of the mouth. From here they are swallowed or expelled (spit out). Unfortunately, cigarette smoking temporarily paralyzes these hair-like cells, disabling one of the body's natural defenses against unwanted dust or fibers.

Despite natural bodily defenses, some dust particles inevitably reach the tiny air sacs in the lungs. When this occurs the human immune system dispatches large cells called macrophages to engulf the particles and "digest" them. These cells deposit a coating on the particles and may begin forming scar tissue around them. This is just another natural defense mechanism the body uses against unwanted debris in the lungs.

(7) Asbestos-Related Diseases

If the body's defenses fail to control or remove asbestos fibers that enter the lungs, the risk of developing an asbestos-related disease increases. Asbestos-related diseases include asbestosis, lung cancer, mesothelioma, and other cancers.

(a) Asbestosis

Asbestosis is a disease characterized by lung scarring. It reduces lung elasticity—the ability to inhale and exhale in response to muscular contractions of the diaphragm—and makes breathing very difficult. Asbestosis is most common among workers who have been exposed to large amounts of asbestos fibers over a long period of time. It is a serious disease and, in those persons exposed to high levels of asbestos, can eventually lead to disability or death. All forms of asbestos are suspected to have the potential to cause asbestosis. Like all diseases associated with asbestos exposure, it may take many years for the disease to show up. The typical latency period for asbestosis is 15 to 30 years. Available data indicate that the frequency of occurrence of asbestosis rises and the disease worsens with increasing dust exposure. The Occupational Safety and Health Administration (OSHA) Asbestos Standards were developed to minimize the incidence of asbestosis among asbestos workers by reducing their exposure to asbestos.

(b) Lung Cancer

As with asbestosis, there appears to be a dose-response relationship between asbestos exposure and lung cancer. In addition, lung cancer arising from asbestos exposure also has a latency period before development—typically 30 years or longer. The risk of contracting lung cancer as a result of exposure to asbestos increases if the worker is a cigarette smoker. Cigarette smokers who are exposed to asbestos are over 50 times more likely to develop lung cancer than the normal, non-smoking population. As a result, a program to help workers stop smoking and an asbestos operations and maintenance program will help reduce the risk of lung cancer among asbestos workers.

(c) Mesothelioma

Mesothelioma is a cancer that occurs in the chest cavity lining or in the abdominal (stomach) lining. This type of cancer spreads rapidly and is always fatal. Cases of mesothelioma have been found in people who have had a limited exposure to asbestos. The onset of this disease appears to be independent of smoking behavior but related to dose and to time from first known asbestos exposure. Mesothelioma tends to have a long latency period—usually 30 to 40 years.

(d) Other Diseases

Several other diseases seem to occur more frequently among people who have been exposed to asbestos. These include cancer of the esophagus, stomach, colon, and pancreas; pleural (fibrous) plaques; pleural thickening; and pleural effusion.

The risks of contracting any of these diseases make it extremely important that asbestos maintenance workers utilize proper work practices and respiratory protection.

While studies of asbestos workers and laboratory animals clearly reveal that asbestos is hazardous, the risks associated with low-level, non-occupational exposure, for example an occupant of a building who is not actually disturbing the asbestos, have not been directly demonstrated. Estimating low-level risks from exposure data is not a straightforward process, and the validity of current methodologies is questionable.

(8) EPA Policy for Asbestos Control in Schools

EPA bases its policy for asbestos control in schools on the following premises:

- Although asbestos is hazardous, the risk of asbestos-related disease depends upon ingestion, primarily upon exposure to airborne asbestos fibers through inhalation.
- Based upon available data, the average airborne asbestos levels in buildings seem to be very low. Accordingly, the health risk to most building occupants also appears to be very low.
- Removal is often not a building owner's best course of action to reduce asbestos exposure. In fact, an improper removal can create a dangerous situation where none previously existed.
- EPA only requires asbestos removal to prevent significant public exposure to airborne asbestos fibers during building demolition or renovation activities.
- Asbestos that has been identified will pose little risk if it is well maintained under an operations and maintenance program. Improper operations and maintenance also can cause dangerous situations. Therefore, EPA requires a pro-active, in-place management program whenever ACBM is discovered and is not removed.

(9) Local Education Agency (School District) Responsibilities

The school district must have an accredited inspector conduct inspections of each school building under its authority. The State Department of Environmental Quality, Division of Air Quality—(801) 536-4000—provides this service. A reinspection of all friable and non-friable known or assumed ACBM in each school building must be conducted at least once every three years that a management plan is in effect. A management planner must review all three-year inspection reports.

- For each inspection and reinspection, an accredited inspector must provide a written assessment of all friable known or assumed ACBM in the school building.
- The school district must have an accredited management planner review the results of the inspection/reinspection and the assessment and make written recommendations on appropriate response actions. The accredited management planner also prepares the asbestos management plan for each school under its authority.
- The school district must select the appropriate response actions consistent with the assessment of the ACBM and the recommendations of the management planner.
- The school district must implement an Operations and Maintenance (O&M) program whenever any friable ACBM is present or assumed to be present in a building under its authority.
- Building inspectors, management planners, project designers, contractors/supervisors, and asbestos workers must complete EPA or state-approved courses and receive accreditation before they can perform any asbestos-related activities.
- The AHERA Rule also specifies training requirements for school district designated persons and custodial and maintenance workers, although these individuals are not required to complete any EPA-approved courses or receive accreditation.
- The school district must conduct periodic surveillance in each building under its authority at least once every six months after a management plan is in effect.
- The school district must comply with the requirements to provide notification about asbestos activities to workers, students, parents, teachers and short-term workers.
- The school district must maintain records in accordance with the AHERA regulations.
- The school district must attach a warning label immediately adjacent to any friable and non-friable ACBM and assumed ACBM located in routine maintenance areas (such as boiler rooms) at each school building.

The AHERA Designated Person must provide a statement that the Local Education

Agency has met (or will meet) the responsibilities listed below. All references are to specific provisions to the AHERA regulations (under § 763.94). The AHERA Designated Person should be able to answer a "yes" to each statement below:

- The activities of any persons who perform 'inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations mid maintenance, are carried out in accordance with 40 CFR Part 763, Subpart E.
- All custodial and maintenance employees are properly trained as required in 40 CFR Part 763, Subpart E and all other applicable federal and/or state regulations of the Occupational Safety and Health Administration Asbestos Standard for Construction, the EPA Worker Protection Rule, and applicable state regulations.
- All workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, post-response action activities, including periodic re-inspections and surveillance activities, that are planned or in progress.
- All short-term workers (i.e., telephone repair workers, utility workers, etc.) who may come in contact with asbestos in schools are provided information regarding the locations of ACBM and assumed ACBM.
- All warning labels are posted in accordance with § 763.95.
- All management plans are available for inspection, and notification of this availability has been provided in accordance with § 763-93(g).
- The person designated by the school district according to § 763.84(g)(1) has received adequate training as required by § 763.84(g)(2).
- The school district has and will consider whether any conflict of interest may arise from the inter-relationship between the accredited person, and whether this potential conflict might not influence the selection of certified personnel to perform activities under 40 CFR part 763, Subpart E

(10) AHERA Inspections

Summary Key Points about AHERA Inspections:

- An AHERA inspection must be conducted by an accredited inspector. The inspector must identify all homogeneous areas of material that are suspected of containing asbestos. Homogeneous areas contain asbestos that is uniform (alike) in color and texture.
- All material suspected of being ACBM must be assumed to be ACBM unless the homogeneous area is sampled, and the analysis of the samples shows them to be non-asbestos. Adequate number of samples must be taken or the area will be considered to be ACBM regardless of the results of the analysis.

- Once the inspector has identified all ACBM in a building, he or she must perform a physical assessment of all non-friable and friable ACBM. This involves categorizing the material into one of seven Physical Assessment Classifications.
- The results of an AHERA inspection and the assessment must be documented in an inspection report. This report will be used by the management planner to make written recommendations on appropriate response actions.

(11) The Management Plan

The management plan is a site-specific guidance document that the school district Designated Person must follow in managing the ACBM present in a school building. The management plan must be prepared by an accredited management planner and must be updated in a timely manner. The management plan must also include the documentation required under § 763.87 of the AHERA Rule for each laboratory performing a bulk sample analysis and the results of each analysis.

In the management plan, the management planner must recommend an appropriate response action (operations and maintenance, repair, encapsulation, enclosure, or removal) for all areas of friable ACBM (including ACBM which has the potential of becoming friable). All of the initial response actions implemented to control friable asbestos require a project design specifying how to conduct the abatement project.

Final air clearance of a functional space after a response action to remove, encapsulate, or enclose ACBM involves a visual inspection and the collection and analysis of air samples. Final air sampling must be done using the transmission electron microscopy (TEM) method, unless the project involves no more than 160 square feet or 260 linear feet, in which case phase contrast microscopy (PCM) may be used. The school district Designated Person is responsible for ensuring that the activities related to the management plan are implemented and that the management plan is updated in a timely manner.

(12) Reinspections and Periodic Surveillance

As long as any ACBM remains in a school building, the building must be reinspected at least once every three years. The reinspection and assessments/reassessments must be conducted by an accredited inspector. The results of the inspection must be submitted to the Designated Person within 30 days to include into the management plan.

The management planner must:

- review the results of the reinspection,
- make a written response action and preventive measure recommendations for each area of friable surfacing and miscellaneous ACBM and each area of ACBM,
- determine whether additional cleaning is necessary and, if so, specify how, when, and where to perform cleaning,
- include an implementation schedule for the recommended activities and make an estimate regarding the resources needed to conduct the activities,
- review the adequacy of the Operations & Maintenance Program.

At least once every six months after a management plan is in effect, the school district must conduct periodic surveillance in each building that contains ACBM or is assumed to contain ACBM.

(13) The Operations and Maintenance Program

An Operations and Maintenance (O&M) program must be implemented whenever any friable ACBM is present or assumed to be present in a school building or whenever any non-friable ACBM or assumed non-friable ACBM is about to become friable as a result of activities performed in the school building.

Unless the building has been cleaned using methods described at § 763.91(c) of the AHERA Rule within the previous six months, all areas of a building where friable ACBM, friable suspected ACBM, assumed to be ACBM, or significantly damaged ACBM is present must be cleaned at least once after the completion of the AHERA inspection and before the initiation of any response action, other than O&M activities or repair.

Specialized work practices and procedures must be followed for any O&M activities disturbing friable ACBM. When a fiber release episode occurs, the work practices that must be followed depend on whether the episode is minor or major in nature. A minor fiber release episode consists of the falling or dislodging of three square or linear feet or less of friable ACBM. A major fiber release episode consists of the falling or dislodging of more than three square or linear feet of friable ACBM.

Once ACBM is identified or assumed to be present, the school district should start a notification and warning program to alert affected parties to a potential hazard in the building and to provide basic information on how to avoid the hazard. The school district is required to attach a warning label immediately adjacent to any friable and non-friable ACBM and suspected ACBM that is assumed to be ACBM that is located in routine maintenance areas. Where employees work in areas where fiber levels exceed permissible exposure limits or are required to wear pressure respirators, the school district must establish a medical surveillance and respiratory protection program.

A school district Designated Person can minimize accidental disturbances of ACBM during maintenance and renovation activities by establishing a permit system that calls for all work orders and requests to be processed through the designated person. The specific work practices that must be followed when routine maintenance activities are being conducted depend on the likelihood that the activities will disturb the ACBM and cause fibers to be released.

(14) Handling and Disposing of Asbestos Waste

The amount and type of asbestos present both determine whether a school district must notify the State Division of Air Quality and what procedures that the school district must follow to control asbestos emissions. If the amount exceeds the regulatory threshold, then a written notification must be submitted ten working days prior to any asbestos stripping or removal operation or demolition operation. EPA regulations (along with state and local requirements) provide detailed instructions on the handling, transport, and disposal of asbestos materials. This includes emission control methods (such as wetting and leak proof wrapping), labels on the containers, record keeping and a trained representative on-site. Waste must be disposed of at a site meeting federal, state and local requirements. For a site in your area, contact the local public health department.

(15) Training and Accreditation

AHERA requires that LEA's employ accredited persons to perform most of the activities associated with asbestos management. Building inspectors, management planners, project designers, contractors/supervisors, and asbestos workers must all complete EPA or state-approved courses that result in accreditation. The AHERA Rule also details specific training requirements for school district Designated Persons and maintenance and custodial workers, although these individuals are not required to complete any EPA-approved courses or receive accreditation.

(a) Designated Person Training

AHERA requires that the AHERA Designated Person be adequately trained to carry out his or her responsibilities. Due to the differing needs of school districts based on the size of the district and the amount and condition of the ACBM, AHERA does not list a specific training course or specific number of hours of training for the Designated Person. Further, AHERA does not require the Designated Person to be accredited. Specifically, the regulations note the training must include the following topics:

- Health effects of asbestos;
- Detection, identification and assessment of asbestos-containing building materials;

- Options for controlling asbestos-containing building materials;
- Asbestos management program;
- Relevant federal and state regulations concerning asbestos, including AHERA and its implementing regulations and the regulations of the Occupational Safety and Health Administration, the U.S. Department of Transportation, and the U.S. Environmental Protection Agency;

The training completed by the school district Designated Person must be documented by course name, dates, and hours of training. This must be kept as a permanent part of the management plan.

(b) Training for Maintenance and Custodial Workers

The school district must ensure that all maintenance and custodial staff who work in a building that contains ACBM receive a minimum of two hours awareness training, whether or not they are required to work with ACBM. New custodial and maintenance employees must be trained within 60 days after the commencement of employment. The awareness training must include, but is not limited to:

- Information regarding asbestos and its various uses and forms;
- Information on the health effects associated with asbestos exposure;
- Locations of ACBM identified throughout each school building in which they work;
- Information on how to recognize damaged, deteriorated, and delaminated ACBM;
- The name and telephone number of the school district Designated Person;
- Information on the availability and location of the management plan;

Staff that could disturb ACBM must receive an additional 14 hours of training. Once this additional training is completed, attendees will be adequately trained to conduct small scale, short-duration activities and/or minor fiber release episode cleanup and repair procedures.

The additional training must include, but is not limited to:

- Descriptions of the proper methods for handling ACBM,
- Information on the use of personal protection measures and respiratory protection,
- The provisions of the AHERA Rule relating to O&M activities (763.91) and training and periodic surveillance (763.92) as well as Appendices A-E of the Rule, EPA -regulations contained in 40 CFR Part 763, subpart G, and in 40 CFR Part 61, Subpart M, and OSHA regulations,

- Hands-on training in the use of respiratory protection and other personal protective measures and good work practices.

(16) Accredited Personnel

Under AHERA, LEA's may employ the following individuals only if they have completed EPA- or State-approved training courses, passed the exams, and received accreditation.

- **Building Inspectors**—Building. inspectors must complete a minimum of three days (24 hours) of training. Training course information covers technical information needed to identify and describe ACBM and information needed to write an inspection report.
- **Management Planners**—Management planners must complete a two-day (16 hours) course after they have completed and passed the exam for the building inspector training described above. This course is an extension of the building inspector training and teaches how to develop a schedule (or plan) for implementation of response actions for hazards or potential hazards identified in the inspection report, how to develop an O&M-plan, and how to prepare and update a management plan.
- **Project Designers**—Project designers must complete a three-day (24 hours) abatement project designer training course. The project designer course teaches how to design response actions and abatement projects. It also covers basic concepts of architectural design, engineering controls and proper work practices as required by the regulation.
- **Contractors/Supervisors**—Contractors/supervisors must complete a minimum of five days (40 hours) of training. The course teaches proper work practices and procedures and covers contractor issues such as legal liability, contract specifications, insurance and bonding, and air monitoring. The course fulfills the OSHA "competent person" training requirement and the National Emission Standards for Hazardous Air Pollutants (NESHAP) "trained representative" requirement.
- **Asbestos Workers**—An asbestos worker must complete a minimum of four days (32 hours) of training. The course covers work practices and procedures, personal protective equipment, health effects of asbestos exposure, and other information critical to individuals who work in an abatement area with hazardous materials.

Update Training is required for all levels of accredited personnel on yearly basis.

(17) Record Keeping

Each school district must maintain a copy of its management plan in its administrative office, and the plan must be available to persons for inspection without cost or restriction. Each school must maintain a copy of the management plan for that school in its administrative office, and the plan must be available to persons for inspection without cost or restriction.

The school district must also maintain records of events that occur after submission of the management plan. These records include training information, periodic surveillance information, cleaning information, small-scale, short duration 0 & M activity information, information on 0 & M activities other than small-scale, short-duration, information on fiber release episodes, information on response actions and preventive measures, and air sampling information. These records should be included in the management plans in a timely manner. For each homogeneous area where all ACBM has been removed, the school district must retain the records of events for three years after the next reinspection, or for an equivalent period. It is the responsibility of the school district Designated Person to ensure that complete and up-to-date records are maintained and included in the management plans.

(18) Related Regulations

Although AHERA and its implementing regulations, the AHERA Rule, set out many of the responsibilities of the school district, there are several other federal regulations that the school district should be aware of when implementing an asbestos management program. These regulations include:

- National Emission Standards for Hazardous Air Pollutants (NESHAP)
- Occupational Safety and Health Administration (OSHA) Construction Industry Standard (29 CFR 1926.1101) and General Industry Standard (29 CFR 1910.1001)
- The EPA Worker Protection Rule (40 CFR § 763.121)
- Department of Transportation (DOT) regulations governing the transport and disposal of asbestos-containing materials (49 CFR Parts 171 and 172)

By following the requirements of these related regulations, the school district can protect not only the people in its buildings from negative health effects but also may protect itself from legal liability. These regulations should be considered to establish minimum standards; going beyond these requirements may help keep buildings as safe as possible. For further information about these related regulations, call the Asbestos Ombudsman Clearinghouse Hotline at (800) 368-5888 between 8:00 a.m. and 4:30 p.m., Eastern Time. Please contact State Risk Management at 538-9578 or the State Division of Air Quality at (801) 536-4000 [http://www.eq.state.ut.us/eqair/aq_home.htm] for more detailed information on asbestos removal and containment in schools.

g. The Americans with Disabilities Act (ADA)

As a government entity providing programs and services to the public, school programs and services must be accessible to persons with disabilities. A transition plan indicating which facilities need to be upgraded and the construction schedule for such work was developed by each school district in 1991. In general, all new construction and altered facilities must be fully accessible to persons with disabilities. In addition, all paths of travel must be accessible to persons with disabilities.

Both the Uniform Building Code (UBC) and the Council of American Building Officials/American National Standards Institute [http://www.cabo.org/] [http://www.ansi.org/] (CABO/ANSI) have accessibility standards [http://209.130.71.96/ standards/ newa117.htm] that School District Building Officials (SDBOs) must comply with. Quoting the purpose section from the American National Standard:

> The specifications in this standard make buildings and facilities accessible to and usable by people with such physical disabilities as the inability to walk, difficulty walking, reliance on walking aids, blindness and visual impairment, deafness and hearing impairment, incoordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes of physical size based generally upon adult dimensions. Accessibility and usability allow a person with a physical disability to independently get to, enter and use a building or facility.
>
> This standard provides specifications for elements that are used in making functional spaces accessible. For example, it specifies technical requirements for making doors, routes, seating, and other elements accessible. These accessible elements are used to design accessible functional spaces such as classrooms, hotel rooms, lobbies, or offices.[17]

School districts must follow all local, state, and federal accessibility codes and guidelines. Under the Americans with Disabilities Act, the most stringent (accessible) code applies. In cases of conflict, federal ADA accessibility standards prevail over conflicting local or state law, administrative rules or regulations. All new or altered facilities must be accessible to and useable by individuals with disabilities. Shown below are ADA accessibility requirements for existing facilities and new construction or alteration/remodel projects:

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[17] American National Standard, CABO/ANSI A117.1-1992, Accessible and Usable Buildings and Facilities, Section 1: Purpose and Application, page 1.

ADA Accessibility Requirements		
Location in ADA Statute	Existing Facilities	New construction Alterations/Remodels
Title II	Programs must be readily accessible when viewed in their entirety—unless to do so would cause a fundamental alteration in the nature of the program, undue financial or administrative burden (these "legal defenses" for not doing so must be fully documented and have legal review).	Facilities must be fully accessible under Americans with Disabilities Act Accessibility Guidelines (ADAAG) or Uniform Federal Accessibility Standards (UFAS)—if construction commenced after January 26, 1992. NOTE: ADAAG should be used wherever possible. The Department of Justice plans to roll UFAS into ADAAG in the near future.

Consultation help on issues relating to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act may be obtained from the Disability and Technical Assistance Center (DBTAC) in Colorado—toll free telephone number 1-800-949-4232.

The Utah State Division of Risk Management reviews new construction, addition, and remodel plans for ADA/Section 504 compliance. These agencies need to review any deviation from accessibility as defined above. Contact State Risk Management at (801) 538-9576 for more information.

h. Roof Inspection Management and Maintenance

A roof membrane is a consumable building element. Every day part of the useful life of the roof is being consumed by wind, snow, hail, rain, ultraviolet rays from the sun, as well as foot traffic and various forms of abuse—even vandalism. While other elements of a building (for example the paint finish) are more visible, and thus tend to be maintained on a regular basis, the roof membrane is usually hidden, not readily accessible and often overlooked until it is leaking. At this point, extensive and costly damage may already have occurred.

The most important reason for establishing a roof inspection management and maintenance program is to protect the capital investment of new and existing roofs. A properly functioning roof maintenance program will not only add years to the life of a roof, but will detect minor problems before major damage to the roof is done and interior building damage occurs.

(1) Establishing a Roof Inspection Management and Maintenance Program

Step One—Establishing roof information files.

Each building should have a roof plan to show all roof areas: Original building roof area, reroof areas, and building addition roof areas. Information contained in the file is essential to any roof inspection. The record files should contain the following sections:

Original Building Roof Design Sections:

- Project records, roof drawings, specifications and applicable addendums.
- Roof plan(s) showing location of all penetrations and roof top equipment.
- Approved submittals of material manufacturer's production data specifications and components used in the original construction of the roof (provide for each section of the building roof).

Installation Section:

- Field reports related to the roofing installation.
- All correspondence between parties involved in the installation of the roof (i.e. general contractor, roofing subcontractor, architect/engineer, roofing consultant, etc.).

Warranty Section:

- Roof guarantees from the roof installer and/or manufacturer with telephone numbers and addresses for contacting in case of problems.

Inspection Maintenance Section:

These items are filed chronologically.

- Periodic inspections reports, with photographs.
- Reports of maintenance repairs, with photographs.
- Records of any construction changes/modifications made to or on the roof surface decks.
- Record of roof top equipment services and/or replacements made on the roof, as well as the firm involvement.

Step Two—Implementing a roof inspection program with periodic inspections.

Generally roof inspections should be made twice each year: once in the spring and once in the fall. Additional roof inspections should be made after major storms, when vandalism relating to the roof is suspected, or after any roof top equipment service or installation.

Prior to any roof inspection an inspection checklist should be developed. It is recommended that a standard checklist be developed for various roofing systems (i.e. build-up roof, single ply membrane, singles, tiles, etc). Standard checklists help to develop a continuity of reports and a consistency that allows statistical analysis when longitudinal data has been gathered. With the inspection checklist and the roof plan, roof problems can be marked on the roof plan itself and notes made on the checklist.

When problems are identified, the roof record file can be consulted and options for repairs can be pinpointed. Each inspection checklist should be returned to the master roofing record file to be reviewed prior to the next inspection. Over time, the roof record file becomes the primary resource to log prior problems and subsequent repairs.

Step Three—Maintenance scheduling and implementation.

Scheduling is usually done based on the following criteria:

- *Immediately* for storm or vandalism damage repairs.
- *Yearly* for pitch pan filling repairs.
- *Multiple-year (up to five years)* for base flashing repairs.

Long term costs of repairs are estimated prior to actual maintenance implementation. Cost comparisons of projected maintenance by roof type and roof age allow maintenance personnel to determine if it is better to replace a roof versus continue to repair it.

(2) Methods of Program Development

An effective roof management program may be developed in several ways:

- The first method is for the school district to develop a complete in-house program to perform all steps within the school district's organization. In this method, the first two steps (1: Establishing roof information files and 2: Implementing a roof inspection program with periodic inspections) are performed by the same group of personnel. This method has the advantage of total in-house control. However, this in-house capability can also be a disadvantage in that a large technical staff may be required or it may not be possible for school districts to hire such specialized personnel. In addition, this method may also require extensive specialized capital equipment investment.
- The second method is for the school district to contract with outside professional roofing consultants. The first two steps (1: Establishing roof

information files and 2: Implementing a roof inspection program with periodic inspections) are performed by a consulting firm. The third step (Maintenance scheduling and implementation) is divided between the school district for cost analysis and decision-making, the consulting firm for scheduling, and a roofing contractor for implementation. The advantage is that through the use of outside personnel, large staff costs and investment in specialized equipment are reduced. The disadvantage is the lack of in-house personnel to provide direct owner involvement and supervision as well as a strong dependence on outside consulting personnel.

- The third method—which is found among many facility owners today—is a combination of owner staff and the use of outside consultants. School district staff may participate with an outside consultant for the first two steps (1: Establishing roof information files and 2: Implementing a roof inspection program with periodic inspections). For the third step, the school district staff may only become involved in emergency and yearly maintenance implementation, with an outside roof contracting firm providing major repair/renovations. In this roofing systems maintenance strategy, the level of school district staff involvement is usually a direct function of the district's commitment to a structured and systematic roofing management program and the district's ability to fund it.

(3) Roof Inspection Procedures

One of the key elements of any roof maintenance program is regular roof inspections. Another critical element is immediate attention to all identified problems. If the room system is currently covered by a manufacturer's or contractor's warranty, the warrantor should be contacted if problems are detected in the roof system during an inspection. In the absence of a warranty, a professional roofing consultant should be contacted to obtain sound repair and maintenance advice if the problems involve other than small repairs.

The following roof inspections should be scheduled at least yearly:

- Semiannual inspections: spring and fall.
- Special inspections following extraordinary situations that may affect the roof (storms, vandalism, etc.). These inspections should be made as soon as possible after the event.

Each inspection should follow a prescribed routine that enables the inspector to examine the visible components of the roof system and identify areas requiring attention. It is also essential to consult and follow the manufacturer's and installation contractor's warranty instructions. A sample Owner Maintenance Inspection Checklist is included in Appendix W. If defects are found, investigate to the most reasonable extent possible to determine their severity and then obtain professional consultant advice to determine appropriate solutions.

The starting point of a roof inspection should be the interior of the building:

- Check interior walls and ceilings for signs of water and staining.
- A floor plan/roof plan should be developed from the interior inspection to indicate where there may be problems at the roof level.

After inspection of the interior, check the exterior walls and overhangs for moisture, cracks and signs of movement.

The roof should then be inspected by checking the following components:

- Cap flashings
- Edge metal
- Base flashings
- Penetrations
- Field membrane
- Other components as required

During inspection, the following maintenance should be routinely performed:

- Pick up and properly dispose of debris and organic plant material and repair any damage.
- Clean drains, gutters, down spouts, scuppers; cut back tree limbs.
- Aggregate surfacing that has been displaced by wind, ice, snow or water flow should be redistributed by using a push broom. Aggregate protects the roof membrane from ultraviolet degradation and must stay in place.
- Duct work often leaks and causes a good roof and flashing assembly to fail.

The following procedures will have a significant impact on the service life of school district roof systems:

- Limit and control roof access; walk in areas that will minimize damage to the roof membrane—use designated roof walkways if they are provided.
- Take immediate action to repair leaks and damage.
- The addition of penetrations or equipment to the roof system should only be done in collaboration with a professional roofing consultant and a structural engineer. How and where equipment is placed is critical to the roofing system, structural system and the state building and fire code.

Whether a school district has three schools or one hundred schools, implementing a systematic roof management and maintenance program and employing a good roofing consultant is essential to maintaining good roofing systems. Using a roofing consultant to help select appropriate new roofing systems adequate to meet local weather conditions is also essential for dependable long lasting roofs. See Appendix W for example roof system historical record forms, roof plan grid forms, and owner maintenance inspection checklists.

i. Underground Natural Gas Piping

The Utah Labor Commission [http://www.labor.state.ut.us/] has established the following areas of consideration for new underground natural gas piping at school facilities:

- Establishment of a written operation and maintenance plan.
- Establishment of a written emergency plan.
- Maintenance of accurate maps of underground gas facilities.
- Establishment of procedures for maintenance of pipeline leak, cathodic protection and other test records.
- Establishment of cathodic protection if steel piping is to be used underground.
- Establishment of training programs for employees involved in gas system operations and maintenance.

The Utah Labor Commission has also established the following areas of consideration for annual maintenance of natural gas underground piping:

- Maintenance of testing and repair records.
- Annual leak survey of all underground piping.
- Annual testing of cathodic protection—testing six times annually for rectifier systems.
- Maintenance of training records.
- Annual inspection and servicing of valves.
- Annual inspection of above-ground piping for atmospheric corrosion with restoration of protection if needed.

Federal and state laws require the above actions. For assistance, school district personnel may call Utah Pipeline Safety at (801) 530-6653.

j. Relocatable Building Issues

Relocatables have three advantages in meeting peak enrollment needs:

- They can be constructed and located on a school campus in a relatively short period of time compared to permanent buildings.
- The initial cost of a relocatable classroom is less than the cost of a traditional classroom.
- When the enrollment peak is past or when the permanent, larger school is completed, the relocatables can be moved to another location where a need exists.

Most relocatable structures have been used to increase the capacity of an existing permanent building and thus reduce the need for a new building. This use represents an addition to an existing building. There is a limit, however, to the number of relocatable classrooms that can be added to a school campus. The fire code allows relocatables to be grouped together without separation from each other provided they are of the same construction type and the aggregate area of the relocatables does not exceed the allowable area permitted by the fire code.

The other limitation to the number of relocatables on a school campus is the limits in support space the existing facility can provide. For example, multi-purpose space, auditorium space, instructional media space, food service facilities, restrooms, and other support areas. In addition, there is a limit on the volume of utilities that can be accommodated through an existing permanent building to portable buildings. The most often limiting utility is electricity. Each permanent building has a finite amount of electrical service that can run through the building to relocatables. When the maximum electrical service is reached, either additional service must be brought to the site and added by the electrical utility company and the school district, or the number of relocatable buildings must not increase. Water and sewer service can also limit the number of relocatables located at a school campus.

The following is a checklist of items school district facilities personnel should consider when locating portable structures on school campuses:

- Approve the site location with the following personnel:
    - Local fire marshal and the State Fire Marshal:
        - Relocatables may not be located closer than 20 feet from a permanent building.
        - All locations for relocatable units as well as the buildings themselves must be reviewed by the State Fire Marshal's office.

- Principal of the school.
- District director of plant operations and grounds.
- District transportation director (if applicable).
- District asbestos personnel keeping records on portables and school locations.
- School District Building Official (SDBO)
- Others as needed.

- Choosing a location or site:
    - Contact Blue Stakes and all underground utilities providers.
    - Do not locate portables directly under high voltage utility lines (more than 600 volts).
    - Locate and comply with all easements and right-of-ways.
    - If the portable is to be located on a grass area:
        - Remove the sod.
        - Disconnect sprinkler heads and other water sources under the portable.
    - Make sure the site has good drainage and that the portable is not located over water collection basins.
    - Be sure the site is accessible to move the portable in and out.
    - Choose a site that is as level as possible.
    - Sidewalks or walkways to the main building should be present.
    - Look at snow removal:
        - Can the entry be positioned with a southern exposure so that snow melts quickly?
        - Can a cover be placed on the porch, ramp and stairs to minimize snow accumulating in areas where children and staff are likely to slip and fall?
        - Is ice likely to form along the walkway to the portable or at the entry of the portable? What can be done to reduce or eliminate chunks of ice falling or ice forming on walkways and the entry?
        - What should the porch, ramp and stair surface be made of to reduce slip and falls during the winter?

- Utilities and Other Services:
    - Where will the electrical power service come from:
        - Is there adequate service to meet the needs of the new portable(s)?

    - Will electrical power come to the portable(s) underground or overhead?
  - Are restrooms necessary in the portable(s), or are washing sinks and drinking fountains adequate?
    - Is there sufficient water?
    - Will the sewer drain line have the adequate drop per lineal foot to drain properly?
    - Are the connections to water and sewer service proper for a relocatable structure?
  - Is natural gas or liquid petroleum gas (LPG) needed in the portable(s)?
    - Is the gas service adequate?
    - Are the connections to gas service proper for a relocatable structure?
  - Be sure the portable(s) are connected to the main building fire alarm system with the proper number and location of fire alarm horns and beacons.
  - Be sure the proper number of fire alarm pull-stations are located within the portable(s).
  - Will the school intercom and bell signal system be extended to the new portable(s)? Be sure they are wired properly.
  - Will there be telephone service to the new portable(s)? Be sure they are wired properly.
  - Be sure each portable meets Americans with Disabilities Act (ADA) and Individuals with Disabilities Education Act (IDEA) criteria for accessibility and an appropriate education in the least restrictive environment to allow students, school and district personnel as well as parents, family members and others appropriate access to each classroom.
  - Relocatable buildings are of wood construction and must meet all of the requirements of the building code for a type VN structure.

- Foundation, Blocking and Anchoring:
  - All relocatable buildings must be located and installed in accordance with engineering standards for specific seismic and wind loads pertaining to each area where the building is located. Check the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual), the Uniform Fire Code, and local building ordinances.
  - Check the state-adopted building code (58-56-4, UCA; see Section 9, Subsection w. of this manual), the Uniform Fire Code, local building ordinances, and secure inspections as designated by the School District Building Official (SDBO)

An additional example relocatable checklist appears in Appendix X.

Relocatable buildings must not only meet the requirements of the Building Code, Electrical Code, Mechanical Code and Plumbing Code, but must also meet the design criteria for snow load, wind velocity, and seismic motion for their specific location. Quality control and inspection by an approved authority is required of relocatable buildings during the manufacturing process. School District Building Officials (SDBOs) are required to ensure that relocatable buildings meet the appropriate design criteria. See Chapter 7, subsection (a) Building Code Inspection Guidelines, subsection (4) Approved Fabricators of this Resource Manual for related inspection guidelines.

k. Outdoor Learning Play Centers

Playgrounds are a fundamental part of the childhood and young adult learning experience. They should be safe, peaceful, nurturing play centers that are an extension of the school learning environment and accommodate the state core curriculum. These include play equipment, hard surface games areas, sand areas, as well as field games and outdoor classroom nature learning areas. These play areas should provide age appropriate play value, activities and events which foster imagination and creativity, with opportunities for social interaction, trying new activities, experimentation, problem solving, developing new skills, and testing capabilities that challenge the physical, intellectual, emotional and social development of children and young adults.

School district and school personnel must provide safe, hazard-free playgrounds by providing qualified, licensed playground specialists as well as thoughtful planning, design, construction, maintenance, training, inspections and records of same. Playgrounds should meet the basic major design criteria of good use relationships, compliant fall zones, adequate resilient fall surfacing, good drainage, proper surface grades, and avoiding hazards of head entrapment, protrusions, clothing entanglement, tripping, falls, etc.

(1) Play Equipment

All school playground equipment must be designed and installed in compliance with the Handbook for Public Playground Safety, published by the U.S. Consumer Product Safety Commission (see Appendix Y), Utah State Risk Management criteria, and ADA accessibility standards. Playgrounds should be inspected initially when they are built or modified, then school personnel should complete a daily, weekly and monthly visual safety inspection. In addition, it is recommended that district personnel provide an annual playground safety inspection. Example safety checklists are found in the appendices of the Handbook for Public Playground Safety in Appendix Y of this manual.

In addition, school personnel should ensure that students use appropriate personal protective equipment for each sport. Players must have appropriate helmets, face masks, shin guards, etc. to protect themselves. If a decision is made to allow a sport, then the protective equipment normally available for that sport is required.

(2) Hard Surface Games and Sand Play Areas

School districts need to provide adequate hard surface areas, appropriate age game standards, markings and separate areas for hard surface games to meet the needs of the population of the school site. Districts should plan and provide for the following typical activities:

- basketball
- tetherball
- squares
- circles
- hopscotch
- skipping
- maps
- bounce walls
- alphabet
- numbers

In addition, districts should provide sand play areas for imaginative, creative and skills development.

(3) Field Games

Adequate play fields should be provided to accommodate typical field games to develop social interaction, team building skills, individual skills, and testing capabilities that challenge physical, intellectual, emotional and social development.

School districts and schools must also control the use of skateboards, in-line skates, bicycles, sleighs, and other forms of transportation/recreation on school grounds both during and after school hours. There has been property damage as well as serious injuries and even deaths as a result of inappropriate use of such equipment on school grounds. Policy, procedure for enforcement, and appropriate signage prohibiting these items should be developed for each school for the types of problems being experienced.

(4) Outdoor Classroom Areas

School districts should also consider providing for and allowing development and enhancement of outdoor classroom nature learning areas by each individual school to extend their indoor learning center and accommodate the state core curriculum. Allowing activities and events which foster imagination and creativity, with opportunities for social interaction, developing community and leadership skills, trying new activities, experimentation, problem solving, developing new learning skills, testing capabilities and enhancing knowledge and education.

I. Fire Extinguishing Systems Inspection and Test

Nearly every school has some sort of kitchen for preparing and/or serving lunches. Most kitchens have a fume hood system to take cooking vapors safely out of the building. A hood system with fire protection over the equipment, behind the hood filters, and in the duct system is required over all commercial kitchen equipment which produces grease-laden vapors. This equipment includes cooking surfaces, deep fat fryers, griddles, broilers, range tops, grills and tilting skillets.

Fire extinguishing systems must be interconnected to the fuel or power supply for cooking equipment. This interconnection must also be arranged to automatically shut off all cooking equipment and electrical receptacles which are located under the hood. The shut-off valves or switches must be of the type that require manual operation to reset. The system must also be activated by heat on fusible links, or by a manual activation device installed at an approved location—usually on the way to or near the rear exit of the kitchen.

The following inspections are required for kitchen hood systems:

- Hood filters must be removed and cleaned sufficiently often to prevent the accumulation of grease, dust and lint. A record containing the extent of cleaning, the time, and the date of cleaning must also be maintained in or near the kitchen area.
- The fusible links and automatic sprinkler heads must be replaced annually or according to the manufacturers recommendations.
- The hood system must be inspected and appropriately maintained at least every six months or immediately after activation.
- The exhaust duct and fume hood should be inspected and cleaned as well.

All inspections and maintenance of kitchen hood systems must be conducted by an individual qualified and licensed to perform such inspections. For more information, contact the State Fire Marshal's office at (801) 284-6350.

m. Fire and Structural Wall Identification

It is recommended that all fire walls (area separation walls), occupancy separation and structural bearing walls be identified by stenciling every twenty feet on the wall in the plenum area above the ceiling the following:

- For fire (area separation) walls:

"FIRE WALL. DO NOT PENETRATE"

- For occupancy separation walls:

"OCCUPANCY WALL. ALL PENETRATIONS MUST BE PROPERLY SEALED"

- For structural bearing walls:

"STRUCTURAL WALL. ALL PENETRATIONS MUST BE APPROVED BY STRUCTURAL ENGINEER"

Proper labeling of fire/area separation walls, occupancy separation walls, and structural load bearing walls will help future facility planners, architects, engineers, equipment installers and repair personnel, as well as school district facility maintenance personnel, to make proper decisions that will maintain the integrity of these special walls as repairs, additions, and modifications are made to school facilities.

n. Nonstructural Earthquake Hazards[18]

This section is intended to help identify nonstructural hazards in schools and to show how those hazards can be reduced. Nonstructural hazards can occur in every part of a building and all of its contents with the exception of the structure. In other words, nonstructural elements are everything *but* the columns, beams, floors, load-bearing walls, and foundations. Common nonstructural items include ceilings, lights, windows, office equipment, computers, files, window air conditioners, electrical equipment, furnishings, and anything stored on shelves or hung on walls. In an earthquake, nonstructural elements become unhooked, dislodged, thrown about, and tipped over; this can cause injury and loss of life, extensive damage, and interruption of school.

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[18] The recommendations included in this document are intended to improve hazard mitigation. The contents do not guarantee the safety of any individual, structure, or facility in an earthquake. Neither the State Board of Education nor the State of Utah assumes liability for any injury, death or property damage that occurs in connection with an earthquake.

The checklist in Appendix Z contains the nonstructural hazards known to be dangerous or problematic in earthquakes. School administrators, maintenance personnel and engineers may carry the checklist with them as they survey a school site. After the survey is complete, any checked **NO** boxes represent hazards in need of correction. In parentheses after each hazard listed there is either a brief suggested solution or a numbered reference. The numbers refer to suggested solutions in Appendix Z that illustrate how to restrain or anchor nonstructural elements and thereby reduce their hazardousness. The illustrations contain the specifications necessary to correct the particular nonstructural hazard.

For some items the fix is fairly complicated, and (**A/E**) indicates that an architect or engineer should be consulted. (**LS**) after an item draws attention to the fact that it is a life safety hazard and should be a high priority for correction. Items in *italics* are generally already taken care of if they were part of a recent state-approved construction project in public schools.

o. Storage of Flammable and Combustible Liquids

Care must be used in the storing, handling and use of flammable and combustible liquids due to the great potential for loss of life or property by fire. There are very specific characteristics unique to various flammable and combustible liquids. There are also a variety of storage situations, usage processes or methods, plus varying degrees of user experience and training that need to be considered. It becomes important to identify just how hazardous an individual flammable/combustible material may be.

The purpose of this section is to provide some basic information for school district employees to assist in identifying and controlling the fire hazards presented by the majority of combustible and flammable liquids used and stored in and around schools.[19]

It is important to identify how hazardous for fire a material may be. There are many factors which may increase the hazardous nature of a material, such as vapor pressure, boiling point, temperature, dispersion, available oxygen or oxidizing chemicals, sources of ignition, etc. Vehicles and containers being transported often have red and white diamond-shaped labels to indicate the degree to which the contents are flammable. Containers may also have the NFPA diamond-shaped label with blue, red, yellow, and white. The uppermost red section tells the degree of flammability from 1 to 4 (the highest).

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[19] For more detailed and additional reference consult:
1997 Uniform Fire Code published by the International Fire Code Institute, Article 79 "Flammable and Combustible Liquids Code".
NFPA 30 (National Fire Protection Association) "Flammable and Combustible Liquids Code".

CFR 49 (Code of Federal Regulations), U.S. Dept. of Transportation Hazardous Materials Regulations, Parts 170 through 179.

The other sections of the label indicate the degree of health hazard (blue), reactivity (yellow), or other notable features (white).

Chemicals are divided into various classes and subcategories to further help identify their degree of flammability:

- **FLAMMABLE** liquid is any liquid with a flash point below 100°F, a vapor pressure not exceeding 40 psia at 100°F, and a boiling point below 100°F.
    - ★ **Class IA** includes those liquids having flashpoints below 73°F and a boiling point below 100°F.
    - ★ **Class IB** includes those liquids having flash points below 73°F and a boiling point at or above 100°F.
    - ★ **Class IC** includes those having flash points at or above 73°F and below 100°F.
- **COMBUSTIBLE** liquids are those with flash points at or above 100°F, but below 200°F. They are further classified into:
    - ★ **Class II**–those liquids having flash points at or above 100°F yet below 140°F.
    - ★ **Class III**–those liquids having flash points at or above 140°F.
        - ▸ **Class IIIA**–flash points at or above 140°F, but less than 200°F.
        - ▸ **Class IIIB**–flash points at or above 200°F.

Note that the U.S. Department of Transportation defines a flammable liquid as any liquid that gives off flammable vapors at or below a temperature of 80°F. This disparity should not cause any difficulty in storage as long as one understands the difference in terminology which affects the labeling of the containers being received.

Flammable or combustible materials should be stored only in approved containers designed for the material. Small amounts of materials may be stored for use in approved containers throughout the building, but should be returned to a central storage point when finished. Any quantity over ten gallons total should be stored within an approved metal storage cabinet specifically designed to store and vent flammable or combustible liquids. Even small quantities should be stored in an approved metal storage cabinet whenever it is available. The maximum quantity of materials in combination is 120 gallons. Class I liquids shall not be stored in a basement.

It is not appropriate to mix the storage of flammable materials with other laboratory chemicals, explosives, pesticides, herbicides, or reactives, including water reactives. Such materials should be stored separately in appropriate containers and cabinets. Cylinders containing compressed gases should also be isolated in secure locations, properly capped and chained, well away from flammable/combustible storage areas.

Within the Uniform Fire Code, Table 7902.5-A contains standards specifying the quantity of each class of flammable liquid that can be stored in various locations on the premises with one-hour fire resistive construction known as "control areas". This is summarized and simplified as follows:

> For educational type occupancies (Group E), the storage quantities of flammable or combustible liquids allowed per control area shall not exceed 30 gallons of Class I-A, 60 gallons of Class I-B, 90 gallons of Class I-C, or 120 gallons in combination of Classes I-A, I-B and I-C. Combustible liquids shall not exceed 120 gallons of Class II, or 330 gallons of Class III-A. Nevertheless, the quantities in Group E Occupancies shall not exceed the amounts necessary for demonstration, treatment, laboratory work, maintenance purposes and operation of equipment. (Uniform Fire Code 7902.5.7.2)

When tanks or containers are being filled, sufficient vapor space (known as "outage") should be maintained above the liquid so the liquid can safely expand when the temperature increases. The recommended outage space for gasoline, for example, is two percent of the container's capacity. Tanks and containers should NOT be stored near heat sources where temperature fluctuations are dramatic. This includes NOT storing containers in sunlight or near radiant energy sources. Adequate ventilation should be provided for any area where flammable or combustible materials are stored or used.

All containers should be properly listed and approved, as well as labeled with the name of the chemical contained, the correct hazard rating, and the quantity. Any smaller containers used for shift work or similar temporary usage must also be properly labeled and dated. Only the quantity of material expected to be consumed during a given shift should be dispensed into smaller containers from the original container. Care should be taken to assure that smaller containers are compatible and also rugged enough to handle abuse such as accidental dropping onto the floor. Do not place materials into a larger container than that in which they were purchased as there are restrictions on the size of container allowed for each type of flammable material (refer to NFPA 30, Table 4-2.3).

When pouring flammable liquids from one container to another, care must be taken to assure that the two containers are of the same electrical state. That is, that each container is bonded to the other container and grounded to reduce the static electric charge on either container. Several fires have started while pouring from one container to the other, which can create or transfer static electricity, creating a spark which ignites the fumes of the flammable liquid. An example of this is the requirement to remove a gasoline can from the bed of a pickup truck prior to filling it, as there is a definite possibility the plastic can or plastic bed liner has introduced a static charge.

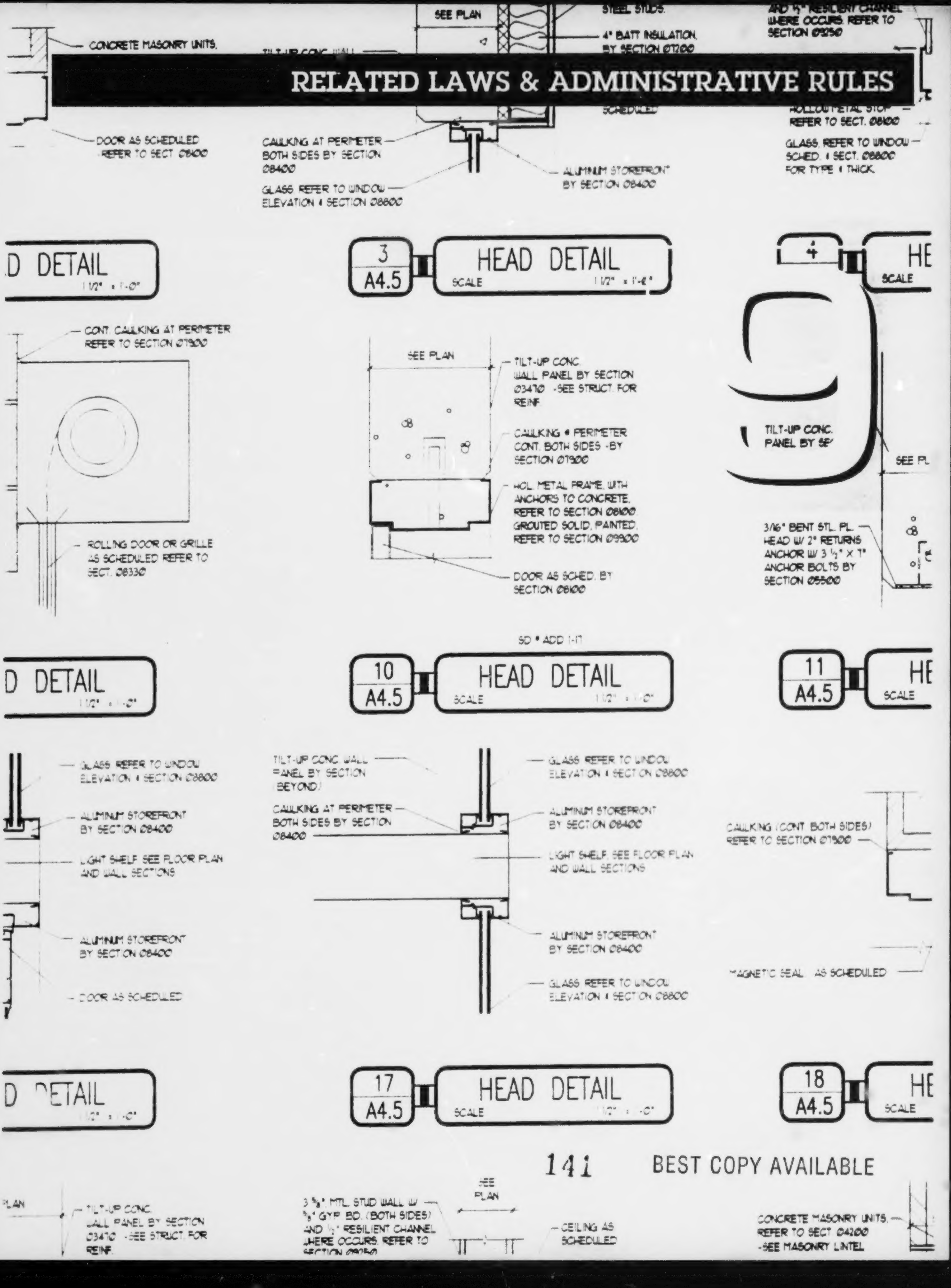
Sources of ignition around flammable or combustible storage areas must be eliminated. Smoking and open flames should be prohibited and well posted with signs accordingly. The use of grinders, saws, spark-producing equipment, spark-producing brush-type motors, welding, electric heaters, cigarettes, gas appliances such as stoves and ovens, hot water heaters, open flames, candles, matches, etc., are examples of ignition sources that should be avoided around storage areas.

Portable fire extinguishers should be mounted in easily visible and accessible locations within close proximity (between 10 and 50 feet). Approved metal waste receptacles with self-closing lids should be used to dispose of cleaning rags or other waste materials such as cardboard which has been impregnated with flammable or combustible materials. It should be noted that the "combustible" materials having the higher flash points are often thought to be less dangerous than "flammable" liquids. This is not true. It is the combustible liquids that have the higher oxidation potential which creates the possibility of spontaneous combustion. For this reason it is important to remove all cleaning rags and impregnated materials from the building each evening. (See Uniform Fire Code 4502.9.6.)

For special operations or activities, or for large quantity storage, tank storage, or rack storage, please refer to the Uniform Fire Code (UFC) and the appropriate National Fire Protection Association (NFPA) codes and standards. The information presented here is only an overview of general flammable and combustible liquid storage guidelines, for educational occupancies, and should not be taken as complete in lieu of existing laws, codes or administrative standards. The material is taken from reputable sources, and no warranty is expressed or implied by the author or by the Utah Division of Risk Management that compliance with any of the above will be adequate or sufficient to avert any degree of fire, disaster, claim, or incident.

For more information contact the State Fire Marshal's office at (801) 284-6350 or the State Risk Manager's Office at (801) 538-9560.

RELATED LAWS & ADMINISTRATIVE RULES


CONCRETE MASONRY UNITS,
SEE PLAN
STEEL STUDS
4" BATT INSULATION, BY SECTION Ø7200
AND ½" RESILIENT CHANNEL WHERE OCCURS. REFER TO SECTION Ø9250
SCHEDULED
HOLLOW METAL STOP REFER TO SECT. Ø8100
DOOR AS SCHEDULED REFER TO SECT Ø8100
CAULKING AT PERIMETER BOTH SIDES BY SECTION Ø8400
GLASS REFER TO WINDOW ELEVATION & SECTION Ø8800
ALUMINUM STOREFRONT BY SECTION Ø8400
GLASS, REFER TO WINDOW SCHED. & SECT. Ø8800 FOR TYPE & THICK.
D DETAIL
1 1/2" = 1'-0"
3
A4.5
HEAD DETAIL
SCALE 1 1/2" = 1'-0"
4
HE
SCALE
CONT. CAULKING AT PERIMETER REFER TO SECTION Ø7900
ROLLING DOOR OR GRILLE AS SCHEDULED REFER TO SECT. Ø8330
SEE PLAN
TILT-UP CONC. WALL PANEL BY SECTION Ø3470 - SEE STRUCT. FOR REINF.
CAULKING @ PERIMETER CONT. BOTH SIDES - BY SECTION Ø7900
HOL. METAL FRAME, WITH ANCHORS TO CONCRETE, REFER TO SECTION Ø8100 GROUTED SOLID, PAINTED, REFER TO SECTION Ø9900
DOOR AS SCHED. BY SECTION Ø8100
9
TILT-UP CONC. PANEL BY SE
SEE PL
3/16" BENT STL. PL. HEAD W/ 2" RETURNS ANCHOR W/ 3 ½" X 7" ANCHOR BOLTS BY SECTION Ø5500
SD # ADD 1-17
D DETAIL
1 1/2" = 1'-0"
10
A4.5
HEAD DETAIL
SCALE 1 1/2" = 1'-0"
11
A4.5
HE
SCALE
GLASS REFER TO WINDOW ELEVATION & SECTION Ø8800
ALUMINUM STOREFRONT BY SECTION Ø8400
LIGHT SHELF SEE FLOOR PLAN AND WALL SECTIONS
ALUMINUM STOREFRONT BY SECTION Ø8400
DOOR AS SCHEDULED
TILT-UP CONC. WALL PANEL BY SECTION (BEYOND)
CAULKING AT PERIMETER BOTH SIDES BY SECTION Ø8400
GLASS REFER TO WINDOW ELEVATION & SECTION Ø8800
ALUMINUM STOREFRONT BY SECTION Ø8400
LIGHT SHELF SEE FLOOR PLAN AND WALL SECTIONS
ALUMINUM STOREFRONT BY SECTION Ø8400
GLASS REFER TO WINDOW ELEVATION & SECTION Ø8800
CAULKING (CONT. BOTH SIDES) REFER TO SECTION Ø7900
MAGNETIC SEAL AS SCHEDULED
D DETAIL
1/2" = 1'-0"
17
A4.5
HEAD DETAIL
SCALE 1/2" = 1'-0"
18
A4.5
HE
SCALE
PLAN
TILT-UP CONC. WALL PANEL BY SECTION Ø3470 - SEE STRUCT. FOR REINF.
3 ⅝" MTL. STUD WALL W/ ⅝" GYP. BD. (BOTH SIDES) AND ½" RESILIENT CHANNEL WHERE OCCURS. REFER TO SECTION Ø9250
SEE PLAN
CEILING AS SCHEDULED
CONCRETE MASONRY UNITS, REFER TO SECT Ø4200 - SEE MASONRY LINTEL

BEST COPY AVAILABLE

9. Related Laws and Administrative Rules

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a.

Administrative Rule R277-471
Oversight of School Inspections

a.

Administrative Rule R277-471
Oversight of School Inspections

R277. Education, Administration.

R277-471. Oversight of School Inspections.

R277-471-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "School District Building Official" (SDBO) means the officer or authority designated by the school district who has direct administrative and operational control of school district construction and renovation and directs compliance with the state adopted building code in the school district.

C. "Superintendent" means the State Superintendent of Public Instruction.

D. "State adopted building code (Code)" means the statutes and administrative rules which control the construction and renovation of buildings in Utah.

E. "School Building Construction and Inspection Resource Manual (Resource Manual)" means a manual which identifies the processes and procedures a school district must follow when constructing a new building or renovating existing buildings. The Resource Manual was developed by the USOE in response to legislative direction and is available in all school district offices and in the School Finance and Statistics Section of the USOE.

F. "USOE" means the Utah State Office of Education.

R277-471-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide specific provisions for the oversight of school construction/renovation inspections.

R277-471-3. School District Building Official.

A. Under provisions of Section 58-56-4, each Utah school district is established as a Code enforcement agency for school construction within the district's jurisdiction.

B. As a code enforcement agency, school districts shall appoint a School District Building Official (SDBO) who has direct administrative and operational control of all construction and renovation of school facilities in the school district.

C. The SDBO shall monitor school district building construction to require compliance with the provisions of the Code.

D. The SDBO shall render interpretations of the Code for the school district. Such interpretations shall be in conformance with the intent and purpose of the Code, insofar as they are expressed in the Code or in legislative intent.

E. The SDBO may adopt and enforce supplemental district policies under appropriate district policies to clarify the application of the provisions of the Code for district personnel.

F. The SDBO shall send monthly construction inspection summary reports to the USOE and to appropriate local governmental entity building officials on each project that has a USOE project number and exceeds $99,999 in cost. The school district shall retain copies of all individual inspection reports at an identified location in the district for monitoring, auditing and potential review purposes by the USOE.

G. The SDBO shall send final inspection certification to the USOE and to the appropriate local governmental entity upon completion of each project. The district, through the SDBO, shall identify the monthly total number of inspections as well as the name, state license number and discipline(s) of the state licensed/certified inspectors performing the building inspections. The SDBO shall sign a final inspection certification form, certifying that all inspections were completed in accordance with the Code.

R277-471-4. School Building Construction and Inspection Resource Manual.

A. The USOE shall develop and distribute to each school district a Resource Manual.

B. The Resource Manual shall include process, legal requirements and resource information on school building construction and inspections.

C. The USOE shall review and, if necessary, update the Resource Manual annually.

D. The Board, local school boards, and school district personnel shall act consistent with the Resource Manual.

R277-471-5. Annual Construction and Inspection Conference.

A. The USOE shall sponsor an annual school construction conference for representative(s) from each school district and interested persons involved in the school building construction industry. The conference shall:

(1) provide current information on the design, construction, and inspection process of school buildings;

(2) provide training on school construction and inspection matters as determined by the USOE; and

(3) offer and discuss information to improve the existing school building inspection program.

KEY: **educational facilities**
1999

Art X Sec 3
53A-1-401(3)
53A-20-104
53A-20-104.5
10-9-106
17-27-105

b.

Senate Bill No. 68, 1999 General Session— School Board Oversight of School Inspections

b.

Senate Bill No. 68, 1999 General Session—School Board Oversight of School Inspections

SCHOOL BOARD OVERSIGHT OF SCHOOL INSPECTIONS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE DEVELOPMENT AND DISTRIBUTION OF A SCHOOL BUILDING CONSTRUCTION AND INSPECTION RESOURCE MANUAL BY THE STATE BOARD OF EDUCATION; PROVIDING FOR AN ANNUAL SCHOOL CONSTRUCTION CONFERENCE; AND REQUIRING THE BOARD TO DEVELOP A PROCESS FOR THE VERIFICATION OF SCHOOL BUILDING INSPECTIONS BY QUALIFIED INSPECTORS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

53A-20-104.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-20-104.5** is enacted to read:

53A-20-104.5. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

(1) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(2) (a) The manual shall include current legal requirements and information on school building construction and inspections.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

(i) using properly certified building inspectors;

(ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) (a) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district.

(b) The board shall make a report on its implementation of the process to the Education Interim Committee prior to the 2000 Legislative General Session.

c.

Senate Bill No. 67, 1999 General Session— Inspections of Public School Buildings

c.

Senate Bill No. 67, 1999 General Session—Inspections of Public School Buildings

INSPECTIONS OF PUBLIC SCHOOL BUILDINGS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: R. Mont Evans

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING THAT A COUNTY OR MUNICIPALITY MAY PROVIDE FOR THE INSPECTION OF SCHOOL CONSTRUCTION IF A SCHOOL DISTRICT IS UNABLE TO PROVIDE ITS OWN QUALIFIED INSPECTOR; DEFINING TERMS; AND MAKING CERTAIN TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-9-106, as last amended by Chapter 23, Laws of Utah 1992

17-27-105, as last amended by Chapter 23, Laws of Utah 1992

53A-20-104, as last amended by Chapter 142, Laws of Utah 1988

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9-106** is amended to read:

10-9-106. Property owned by other government units -- Effect of land use and development ordinances.

(1) (a) Each county, municipality, school district, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality only in a manner or for a purpose that conforms to that municipality's ordinances.

(b) In addition to any other remedies provided by law, when a municipality's land use and development ordinances are being violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) A school district is subject to a municipality's land use regulations under this chapter, except that a municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless [~~neither~~] the school district [~~nor the state superintendent has provided~~] is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent [~~with the approval of the state building~~

~~board and state fire marshal~~];

(e) require a school district to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address; or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

(3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new school with the municipality in which the school is to be located, to avoid or mitigate existing and potential traffic hazards to maximize school safety.

Section 2. Section **17-27-105** is amended to read:

17-27-105. Property owned by other government units -- Effect of land use and development ordinances.

(1) (a) Each county, municipality, school district, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within that county only in a manner or for a purpose that conforms to that county's ordinances.

(b) In addition to any other remedies provided by law, when a county's land use and development ordinances are being violated or about to be violated by another political subdivision, that county may institute injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) A school district is subject to a county's land use regulations under this chapter, except that a county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless [~~neither~~] the school district [~~nor the state superintendent has provided~~] is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent [~~with the approval of the state building~~
~~board and state fire marshal~~];

(e) require a school district to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address; or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

(3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new school with the county in which the school is to be located, to avoid or mitigate existing and potential traffic hazards to maximize school safety.

Section 3. Section **53A-20-104** is amended to read:

53A-20-104. Enforcement of chapter by state superintendent -- Employment of personnel -- Certificate of occupancy.

(1) The state superintendent of public instruction shall enforce this chapter.

(2) The superintendent may employ architects or other qualified personnel, or contract with

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the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this chapter;

(b) [~~inspect~~] verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this chapter.

(3) (a) [~~Certificates~~] A local school board shall file certificates of [~~inspection shall be filed~~] occupancy with the local governmental entity's building official and the State Office of Education for the purpose of advising [~~that entity~~] those entities that the school district has complied with the inspection provisions of this chapter.

(b) For purposes of Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of occupancy" means standard inspection forms developed by the state superintendent in consultation with local school boards to verify that inspections by qualified inspectors have occurred.

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d.

Section 63-56-36, Utah Code Annotated—Procurement of Construction

d.

Section 63-56-36, Utah Code Annotated—Procurement of Construction

PART E
PROCUREMENT OF CONSTRUCTION

63-56-36. Alternative methods of construction contracting management.

(1) (a) Rules shall provide as many alternative methods of construction contracting management as determined to be feasible.

(b) These rules shall:

(i) grant to the chief procurement officer or the head of the purchasing agency responsible for carrying out the construction project the discretion to select the appropriate method of construction contracting management for a particular project; and

(ii) require the procurement officer to execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

(c) Before choosing a construction contracting management method, the chief procurement officer or the head of the purchasing agency responsible for carrying out the construction project shall consider the following factors:

(i) when the project must be ready to be occupied;

(ii) the type of project;

(iii) the extent to which the requirements of the procuring agencies and the ways in which they are to be met are known;

(iv) the location of the project;

(v) the size, scope, complexity, and economics of the project;

(vi) the source of funding and any resulting constraints necessitated by the funding source;

(vii) the availability, qualification, and experience of state personnel to be assigned to the project and how much time the state personnel can devote to the project; and

(viii) the availability, qualifications, and experience of outside consultants and contractors to complete the project under the various methods being considered.

(2) (a) Rules adopted by state public procurement units and local public procurement units to implement this section may authorize the use of a Construction Manager/General Contractor as one method of construction contracting management.

(b) Those rules shall require that:

(i) the Construction Manager/General Contractor shall be selected using one of the source selection methods provided for in Sections 63-56-20 through 63-56-35.8 of this chapter; and

(ii) when entering into any subcontract that was not specifically included in the Construction Manager/General Contractor's cost proposal submitted under the requirements of Subsection (2)(c)(ii), the Construction Manager/General Contractor shall procure that subcontractor by using one of the source selection methods provided for in Sections 63-56-20 through 63-56-35.8 of this chapter in the same manner as if the subcontract work was procured directly by the state.

(3) Procurement rules adopted by the State Building Board under Subsection (1) for state building construction projects may authorize the use of a design-build provider as one method of construction contracting management.

History: C. 1953, 63-56-36, enacted by L. 1980, ch. 75, § 1; 1997, ch. 89, § 2.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R916-3.

Amendment Notes. - The 1997 amendment, effective May 5, 1997, deleted "and regulations" after "Rules" and "for" after "provide" in Subsection (1)(a); deleted "and regulations" after "rules" in Subsection (1)(b); and added Subsections (1)(c) through (3).

COLLATERAL REFERENCES

A.L.R. - Waiver of competitive bidding requirements for state and local public building and construction contracts, 40 A.L.R.4th 968.

e.

Administrative Rule R33-3—Source Selection and Contract Formation

e.

Administrative Rule R33-3—Source Selection and Contract Formation

R33-3. Source Selection and Contract Formation.

R33-3-1. Competitive Sealed Bidding; Multi-Step Sealed Bidding.
R33-3-2. Competitive Sealed Proposals.
R33-3-3. Small Purchases.
R33-3-4. Sole Source Procurement.
R33-3-5. Emergency Procurements.
R33-3-6. Responsibility.
R33-3-7. Types of Contracts.
R33-3-8. Cost or Pricing Data and Analysis; Audits.
R33-3-9. Plant or Site Inspection; Inspection of Supplies or Services.

R33-3-1. Competitive Sealed Bidding; Multi-Step Sealed Bidding.

3-101 Content of the Invitation For Bids.

(1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

(2) Content. The Invitation for Bids include the following:

(a) Instructions and information to bidders concerning the bid submission requirements, including the time and closing date for submission of bids, the address of the office to which bids are to be delivered, and any other special information;

(b) The purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description;

(c) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

(3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where the documents can be obtained.

(4) Acknowledgement of Amendments. The Invitation for Bids shall require the acknowledgement of the receipt of all amendments issued.

3-102 Bidding Time. Bidding time is the period of time between the date of distribution of the Invitation for Bids and the date set for opening of bids. In each case bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer.

3-103 Bidder Submissions.

(1) Bid Form. The Invitation for Bids shall provide a form which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions.

(2) Telegraphic Bids. The Invitation for Bids may state that telegraphic bids and mailgrams will be considered whenever they are received in hand at the designated office by the time specified for bid opening. Telegraphic bids or mailgrams shall contain specific reference to the Invitation for Bids, the time and place of delivery, and a statement that the bidder agrees to all the terms, conditions, and provisions of the Invitation for Bids. Bidders submitting telegraphic or mailgram bids shall submit a formal bid on the Invitation for Bids form within three days of the bid

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opening date or a time designated by the procurement officer.

(3) Bid Samples and Descriptive Literature.

(a) Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item and assists the purchasing agency in considering whether the item meets requirements or criteria set forth in the invitation.

(b) Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

(c) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

(d) Samples of items, when called for in the Invitation for Bids, must be furnished free of expense, and if not destroyed by testing, will upon request, be returned at the bidder's expense. Samples submitted by the successful bidder may be held for comparison with merchandise furnished and will not necessarily be returned. Samples must be labeled or otherwise identified as called for by the purchasing agency.

(4) Bid Security. Bid and performance bonds or other security may be required for supply contracts or service contracts as the procurement officer deems advisable to protect the interests of the purchasing agency. Any requirements must be set forth in the solicitation. Bid or performance bonds should not be used as a substitute for a determination of bidder or offeror responsibility.

(5) Bid Price. Bid prices submitted in response to an invitation for bids must stand alone and may not be dependent upon a bid submitted by any other bidder. A bid reliant upon the submission of another bidder will not be considered for award.

3-104 Public Notice.

(1) Distribution. Invitation for Bids or notices of the availability of Invitation for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing reasonable competition. Notices of availability shall indicate where, when, and for how long Invitation for Bids may be obtained; generally describe the supply, service, or construction desired; and may contain other appropriate information. Where appropriate, the procurement officer may require payment of a fee or a deposit for the supplying of the Invitation for Bids.

(2) Publication. Every procurement in excess of $20,000 shall be publicized in any or all of the following:

(a) in a newspaper of general circulation;

(b) in a newspaper of local circulation in the area pertinent to the procurement;

(c) in industry media; or

(d) in a government publication designed for giving public notice.

(3) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection at the procurement officer's office.

3-105 Bidder List; Prequalification.

(1) Purpose. Lists of qualified prospective bidders may be compiled and maintained by purchasing agencies for the purpose of soliciting competition on various types of supplies, services, and construction. Qualifications for inclusion on the lists may include legal competence to contract and capabilities for production and distribution as considerations. However, solicitations shall not be restricted to prequalified suppliers, and unless otherwise provided inclusion or exclusion on the name of a business does not determine whether the business is

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responsible with respect to a particular procurement or otherwise capable of successfully performing a contract.

(2) Public Availability. Subject to procedures established by the procurement officer, names and addresses on bidder lists shall be available for public inspection.

3-106 Pre-Bid Conferences.

Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bids. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment as provided in section 3-107 and the Invitation for Bids and the notice of the pre-bid conference shall so provide. If a written summary of the conference is deemed advisable by the procurement officer, a copy shall be supplied to all those prospective bidders known to have received an Invitation for Bids and shall be available as a public record.

3-107 Amendments to Invitation for Bids.

(1) Application. Amendments should be used to:

(a) make any changes in the Invitation for Bids including changes in quantity, purchase descriptions, delivery schedules, and opening dates;

(b) correct defects or ambiguities; or

(c) furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of information would be equitable to other bidders.

(2) Form. Amendments to Invitation for bids shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued.

(3) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.

(4) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time set for bid opening will not permit proper preparation, to the extent possible the time shall be increased in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

3-108 Pre-Opening Modification of Withdrawal of Bids.

(1) Procedure. Bids may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation for Bids prior to the time set for bid opening. A telegraphic modification or withdrawal received by telephone prior to bid opening from the receiving telegraph company will be effective if the telegraph company confirms the message by sending a copy of the written telegram showing that the message was received prior to bid opening.

(2) Disposition of Bid Security. Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

(3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

3-109 Late Bids, Late Withdrawals, and Late Modifications.

(1) Definition. Any bid, withdrawal, or modification received at the address designated in the Invitation for Bids after the time and date set for opening of bids at the place designated for

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opening is late.

(2) Treatment. No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of personnel directly serving the procurement activity or lateness otherwise not attributable to bidder's fault or negligence.

(3) Records. Records equivalent to those required in section 3-108 (3) shall be made and kept for each late bid, late modification, or late withdrawal.

3-110 Receipt, Opening, and Recording of Bids.

(1) Receipt. Upon receipt, all bids and modifications will be time stamped, but not opened. They shall be stored in a secure place until bid opening time.

(2) Opening and Recording. Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the Invitation for Bids. The names of the bidders, the bid price, and other information as is deemed appropriate by the procurement officer, shall be read aloud or otherwise be made available. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in subsection (3) of this section. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Make and model, and model or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary.

(3) Confidential Data. The procurement officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the procurement officer shall inform the bidders in writing what portions of the bids will be disclosed.

3-111 Mistakes in Bids.

(1) If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the procurement officer and to the extent it is not contrary to the interest of the purchasing agency or the fair treatment of other bidders.

(2) Mistakes Discovered Before Opening. A bidder may correct mistakes discovered before bid opening by withdrawing or correcting the bid as provided in section 3-108.

(3) Confirmation of Bid. When it appears from a review of the bid that a mistake has been made, the bidder should be requested to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in subsection (1), (4) and (6) of this section are met.

(4) Mistakes Discovered After Opening But Before Award. This subsection sets forth procedures to be applied in three situations described in paragraphs (a), (b) and (c) below in which mistakes in bids are discovered after opening but before award.

(a) Minor Informalities. Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is not significant. The procurement officer may waive these informalities. Examples include the failure of a bidder to:

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(i) return the number of signed bids required by the Invitation for Bids;

(ii) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound;

(iii) acknowledge receipt of an amendment to the Invitation for Bids, but only if:

(A) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or

(B) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

(C) Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(D) Mistakes Where Intended Bid is Not Evident. A bidder may be permitted to withdraw a low bid if:

(i) a mistake is clearly evident on the face of the bid document but the intended bid is not similarly evident; or

(ii) the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

(5) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract.

(6) Written Approval or Denial Required. The procurement officer shall approve or deny, in writing, a bidder's request to correct or withdraw a bid. Approval or denial may be so indicated on the bidder's written request for correction or withdrawal.

3-112 Bid Evaluation and Award.

(1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. The Invitation for Bids shall set forth the requirements and criteria which will be used to determine the lowest responsive and responsible bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids. An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, when it is the best interests of the purchasing agency as determined by the purchasing agency. In the event of cancellation of the solicitation or rejection of all bids or proposals received in response to a solicitation, the reasons for cancellation or rejection shall be made a part of the bid file and shall be available for public inspection and the purchasing agency shall (a) re-solicit new bids using the same or revised specifications; or (b) withdraw the requisition for supplies or services.

(2) Responsibility and Responsiveness. Responsibility of prospective contractors is covered by subpart 3-7 of these rules. Responsiveness of bids is covered by Subsection 63-56-5(21) and responsive bidder is defined in Subsection 63-56-5(23).

(3) Product Acceptability. The Invitation for Bids shall set forth the evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for:

(a) inspection or testing of a product prior to award for such characteristics as quality or workmanship;

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(b) examination of such elements as appearance, finish, taste, or feel; or

(c) other examinations to determine whether it conforms with any other purchase description requirements. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

(4) Determination of Lowest Bidder. Bids will be evaluated to determine overall economy for the intended use, in accordance with the evaluation criteria set forth in the Invitation for Bids. Examples of criteria include transportation cost, energy cost, ownership and other identifiable costs or life-cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall:

(a) be reasonable estimates based upon information the purchasing agency has available concerning future use; and

(b) treat all bids equitably.

(5) Extension of Time for Bid or Proposal Acceptance. After opening bids or proposals, the procurement officer may request bidders or offerors to extend the time during which their bids or proposals may be accepted, provided that, with regard to bids, no other change is permitted. The reasons for requesting an extension shall be documented.

(6) Only One Bid or Proposal Received. If only one responsive bid is received in response to an Invitation for Bids, including multi-step bidding, an award may be made to the single bidder if the procurement officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the bid may be rejected and:

(a) new bids or offers may be solicited;

(b) the proposed procurement may be canceled; or

(c) if the procurement officer determines in writing that the need for the supply of service continues but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted under subpart 3-4 or subpart 3-5, as appropriate.

(7) Multiple or Alternate Bids or Proposals. Unless multiple or alternate bids or offers are specifically provided for, the solicitation shall state they will not be accepted. When prohibited, the multiple or alternate bids or offers shall be rejected although a clearly indicated base bid shall be considered for award as though it were the only bid or offer submitted by the bidder or offeror. The provisions of this subsection shall be set forth in the solicitation, and if multiple or alternate bids are allowed, it shall specify their treatment.

3-113 Tie Bids.

(1) Definition. Tie bids are low responsive bids from responsible bidders that are identical in price.

(2) Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among identical bidders. In the discretion of the procurement officer, award shall be made in any permissible manner that will discourage tie bids. Procedures which may be used to discourage tie bids include:

(a) where identical low bids include the cost of delivery, award the contract to the bidder farthest from the point of delivery;

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(b) award the contract to the identical bidder who received the previous award and continue to award succeeding contracts to the same bidder so long as all low bids are identical;

(c) award to the identical bidder with the earliest delivery date;

(d) award to a Utah resident bidder or for a Utah produced product where other tie bids are from out of state;

(e) if price is considered excessive or for other reason the bids are unsatisfactory, reject all bids and negotiate a more favorable contract in the open market; or

(f) if no permissible method will be effective in discouraging tie bids and a written determination is made so stating, award may be made by drawing lots.

(3) Record. Records shall be made of all Invitations for Bids on which tie bids are received showing at least the following information:

(a) the Invitation for Bids;

(b) the supply, service, or construction item;

(c) all the bidders and the prices submitted; and

(d) procedure for resolving tie bids. A copy of each record shall be sent to the Attorney General if the tie bids are in excess of $8,000.

3-114 Multi-Step Sealed Bidding.

(1) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to arrive at technical offers and terms acceptable to the purchasing agency and suitable for competitive pricing.

(2) Use. The multi-step sealed bidding method will be used when the procurement officer deems it to the advantage of the purchasing agency. Multi-step sealed bidding will thus be used when it is considered desirable:

(a) to invite and evaluate technical offers to determine their acceptability to fulfill the purchase description requirements;

(b) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description;

(c) to accomplish subsections (a) and (b) of this section prior to soliciting priced bids; and

(d) to award the contract to the lowest responsive and responsible bidder in accordance with the competitive sealed bidding procedures.

3-115 Pre-Bid Conferences in Multi-Step Sealed Bidding.

Prior to the submission of unpriced technical offers, a pre-bid conference as contemplated by section 3-106 may be conducted by the procurement officer. The procurement officer may also hold a conference of all bidders in accordance with section 3-106 at any time during the evaluation of the unpriced technical offers.

3-116 Procedure for Phase One of Multi-Step Sealed Bidding.

(1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids

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in the form required by section 3-101. In addition to the requirements set forth in section 3-101, the multi-step Invitation for Bids shall state:

(a) that unpriced technical offers are requested;

(b) whether price bids are to be submitted at the same time as unpriced technical offers; if they are, the price bids shall be submitted in a separate sealed envelope;

(c) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

(d) the criteria to be used in the evaluation of the unpriced technical offers;

(e) that the purchasing agency, to the extent the procurement officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;

(f) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and

(g) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

(2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be canceled in accordance with Subsection R33-3-1 3-112(1) of these rules and a new Invitation for Bids issued.

(3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers shall be opened publicly, identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction item offered. Prior to the award of the selection of the lowest responsive and responsible bidder following phase two, technical offerors shall be shown only to purchasing agency personnel having a legitimate interest in them. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

(4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

(a) acceptable;

(b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

(c) unacceptable. The procurement officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The procurement officer may initiate phase two of the procedure if, in the procurement officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without modification or alteration of the offers. If the procurement officer finds that this is not the case, the procurement officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in subsection (5) of this section.

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(5) Discussion of Unpriced Technical Offers. Discussion of its technical offer may be conducted by the procurement officer with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of these discussions the procurement officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical offer at any time until the closing date established by the procurement officer. This submission may be made at the request of the procurement officer or upon the bidder's own initiative.

(6) Notice of Unacceptable Unpriced Technical Offer. When the procurement officer determines a bidder's unpriced technical offer to be unacceptable, the officer shall notify the bidder. The bidders shall not be afforded an additional opportunity to supplement technical offers.

3-117 Mistakes During Multi-Step Sealed Bidding.

Mistakes may be corrected or bids may be withdrawn during phase one:

(a) before unpriced technical offers are considered;

(b) after any discussions have commenced under section 3-116(5) (procedure for Phase One of Multi-Step Sealed Bidding, Discussion of Unpriced Technical Offers); or

(c) when responding to any amendment of the Invitation for Bids. Otherwise mistakes may be corrected or withdrawal permitted in accordance with section 3-111.

3-118 Carrying Out Phase Two.

(1) Initiation. Upon the completion of phase one, the procurement officer shall either:

(a) open price bids submitted in phase one from bidders whose unpriced technical offers were found to be acceptable; provided, however, that the offers have remained unchanged, and the Invitation for Bids has not been amended; or

(b) invite each acceptable bidder to submit a price bid.

(2) Conduct. Phase two is to be conducted as any other competitive sealed bid procurement except:

(a) as specifically set forth in section 3-114 through section 3-120 of these rules; and

(b) no public notice need be given of this invitation to submit.

3-119 Procuring Governmental Produced Supplies or Services.

Purchasing agency requirements may be fulfilled by procuring supplies produced or services performed incident to programs such as industries of correctional or other governmental institutions. The procurement officer shall determine whether the supplies or services meet the purchasing agency's requirements and whether the price represents a fair market value for the supplies or services. If it is determined that the requirements cannot thus be met or the price is not fair and reasonable, the procurement may be made from the private sector in accordance with the Utah Procurement Code. When procurements are made from other governmental agencies, the private sector need not be solicited to compete against them.

3-120 Purchase of Items Separately from Construction Contract.

The procurement officer is authorized to determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

3-121 Exceptions to Competitive Sealed Bid Process.

(1) The Chief Procurement Officer, head of a purchasing agency or designee may utilize alternative procurement methods to purchase items such as the following when determined to be

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more practicable or advantageous to the state.

(a) Used vehicles

(b) Livestock

(2) Alternative procurement methods including informal price quotations and direct negotiations may be used by the Chief Procurement Officer, head of the purchasing agency or designee for the following:

(a) Hotel conference facilities and services

(b) Speaker honorariums

(3) Documentation of the alternative procurement method utilized shall be part of the contract file.

R33-3-2. Competitive Sealed Proposals.

3-201 Use of Competitive Sealed Proposals.

(1) Appropriateness. Competitive sealed proposals may be a more appropriate method for a particular procurement or type of procurement than competitive sealed bidding, after consideration of factors such as:

(a) whether there may be a need for price and service negotiation;

(b) whether there may be a need for negotiation during performance of the contract;

(c) whether the relative skills or expertise of the offerors will have to be evaluated;

(d) whether cost is secondary to the characteristics of the product or service sought, as in a work of art; and

(e) whether the conditions of the service, product or delivery conditions are unable to be sufficiently described in the Invitation for Bids.

(2) Determinations.

(a) Except as provided in Section 63-56-21 of the Utah Procurement Code, before a solicitation may be issued for competitive sealed proposals, the procurement officer shall determine in writing that competitive sealed proposals is a more appropriate method for contracting than competitive sealed bidding.

(b) The procurement officer may make determinations by category of supply, service, or construction item rather than by individual procurement. Procurement of the types of supplies, services, or construction so designated may then be made by competitive sealed proposals without making the determination competitive sealed bidding is either not practicable or not advantageous. The officer who made the determination may modify or revoke it at any time and the determination should be reviewed for current applicability from time to time.

(3) Professional Services. For procurement of professional services, agencies shall submit to bidding procedures wherever practicable through the RFP procedures. Examples of professional services generally best procured through the RFP process are accounting and auditing, court reporters, x-ray technicians, legal, medical, nursing, education, actuarial, veterinarians, and research. The procurement officer will make the determination. Architecture and engineering professional services are to be procured in compliance with R33-5-510.

3-202 Content of the Request for Proposals.

The Request for Proposals shall be prepared in accordance with section 3-101 provided that it shall also include:

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(a) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without discussions; and

(b) a statement of when and how price should be submitted.

3-203 Proposal Preparation Time.

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the procurement officer.

3-204 Form of Proposal.

The manner in which proposals are to be submitted, including any forms for that purpose, may be designated as a part of the Request for Proposals.

3-205 Public Notice.

Public notice shall be given by distributing the Request for Proposals in the same manner provided for distributing an Invitation for Bids under section 3-104.

3-206 Pre-Proposal Conferences.

Pre-proposal conferences may be conducted in accordance with section 3-106. Any conference should be held prior to submission of initial proposals.

3-207 Amendments to Request for Proposals.

Amendments to the Request for Proposals may be made in accordance with section 3-107 prior to submission of proposals. After submission of proposals, amendments may be made in accordance with section 3-118(2).

3-208 Modification or Withdrawal of Proposals.

Proposals may be modified or withdrawn prior to the established due date in accordance with section 3-108. For the purposes of this section and section 3-209, the established due date is either the date and time announced for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the date and time by which best and final offers must be submitted, provided that only offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.

3-209 Late Proposals, Late Withdrawals, and Late Modifications.

(1) Definition. Except for modification allowed pursuant to negotiation, any proposal, withdrawal, or modification received after the established due date and time at the place designated for receipt of proposals is late.

(2) Treatment. No late proposal, late modification, or late withdrawal will be considered unless received before contract award, and the late proposal would have been timely but for the action or inaction of personnel directly serving the procurement activity or lateness otherwise not attributable to offeror's fault or negligence.

(3) Records. All documents shall be kept relating to the acceptance of any late proposal, modification or withdrawal.

3-210 Receipt and Registration of Proposals.

(1) Proposals shall be opened publicly, identifying only the names of the offerors. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a register of proposals shall be open to public inspection and shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply,

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service, or construction item offered. Prior to award proposals and modifications shall be shown only to purchasing agency personnel having a legitimate interest in them.

(2) Proposals of the successful offeror(s) shall be open to public inspection for a period of 90 days after selection of the successful offeror(s). Proposals of offerors who are not awarded contracts shall not be open to public inspection.

(3) If the offeror selected for award has requested in writing the non-disclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of this officer shall examine the request in the proposal to determine its validity prior to award of the contract. If the parties do not agree as to the disclosure of data in the contract, the head of the agency conducting the procurement or a designee of this officer shall inform the offeror in writing what portion of the proposal will be disclosed and that, unless the offeror withdraws the proposal it will be disclosed.

3-211 Evaluation of Proposals.

(1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors and their relative importance, including price.

(2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals shall not be considered in determining award of contract.

(3) Classifying Proposals. For the purpose of conducting discussions under section 3-212, proposals shall be initially classified as:

(a) acceptable;

(b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

(c) unacceptable.

3-212 Proposal Discussion with Individual Offerors.

(1) "Offerors" Defined. For the purposes of this section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses which submitted unacceptable proposals.

(2) Purposes of Discussions. Discussions are held to facilitate and encourage an adequate number of potential contractors to offer their best proposals, by amending their original offers, if needed.

(3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The procurement officer should establish procedures and schedules for conducting discussions. If during discussions there is a need for clarification or change of the Request for Proposals, it shall be amended to incorporate this clarification or change. Auction techniques and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

(4) Best and Final Offers. The procurement officer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the procurement officer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing agency's interest, and additional discussions will be conducted or the purchasing agency's requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or

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another best and final offer, their immediate previous offer will be construed as their best and final offer.

3-213 Mistakes in Proposals.

(1) Mistakes Discovered Before the Established Due Date. An offeror may correct mistakes discovered before the time and date established for receipt of proposals by withdrawing or correcting the proposal as provided in section 3-208.

(2) Confirmation of Proposal. When it appears from a review of the proposal before award that a mistake has been made, the offeror should be asked to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn during any discussions that are held or if the conditions set forth in subsection (4) of this section are met.

(3) Mistakes Discovered After Receipt But Before Award. This subsection sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

(a) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

(b) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this section, shall be treated as they are under competitive sealed bidding.

(c) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the correct offer considered only if:

(i) the mistake and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn; or

(ii) the mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the correct offer and the correction would not be contrary to the fair and equal treatment of other offerors.

(d) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

(i) the mistake is clearly evident on the face of the proposal and the correct offer is not; or

(ii) the offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made but does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis that the proof would be contrary to the fair and equal treatment of other offerors.

(4) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract.

3-214 Award.

(1) Award Documentation. A written determination shall be made showing the basis on which the award was found to be most advantageous to the purchasing agency based on the factors set forth in the Request for Proposals.

(2) One Proposal Received. If only one proposal is received in response to a Request for Proposals, the procurement officer may, as the officer deems appropriate, either make an award

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or, if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals.

3-215 Publicizing Awards.

(1) After a contract is entered into, notice of award shall be available in the purchasing agency's office.

3-216 Exceptions to Competitive Sealed Proposal Process.

(1) As authorized by Section 63-56-21(1) the Chief Procurement Officer or designee may determine that for a given request it is either not practicable or not advantageous for the state to procure a commodity or service referenced in section 3-201 above by soliciting competitive sealed proposals. When making this determination, the Chief Procurement Officer may take into consideration whether the potential cost of preparing, soliciting and evaluating competitive sealed proposals is expected to exceed the benefits normally associated with such solicitations. In the event of that it is so determined, the Chief Procurement Officer, head of a purchasing agency or designee may elect to utilize an alternative, more cost effective procurement method, which may include direct negotiations with a qualified vendor or contractor.

(2) Documentation of the alternative procurement method selected shall state the reasons for selection and shall be made a part of the contract file.

3-217 Multiple Award Contracts for Human Service Provider Services.

The Chief Procurement Officer, head of a purchasing agency or designee may elect to award multiple contracts for Human Service Provider Services through a competitive sealed proposal process by first determining the appropriate fee to be paid to providers and then contracting with all providers meeting the criteria established in the RFP. However this specialized system of contracting for human service provider services may only be used when:

(1) The agency has performed an appropriate analysis to determine appropriate rates to be paid;

(2) The agency files contain adequate documentation of the reasons the contractor was awarded the contract and the reasons for selecting a particular contractor to provide the service to each client; and

(3) The agency has a formal written complaint and appeal process, notice of which is provided to the contractors, and an internal audit function to insure that selection of the contractor from the list of awarded contractors was fair, equitable and appropriate.

R33-3-3. Small Purchases.

3-301 Authority to Make Small Purchases.

(1) Amount. The Office of the Chief Procurement Officer or purchasing agency may use these procedures if the procurement is estimated to be less than $20,000 for supplies, services or construction. If these procedures are not used, the other methods of source selection provided in Section 63-56-23 of the Utah Procurement Code and these rules shall apply.

(2) Existing Statewide Contracts. Supplies, services, or construction items available under statewide contracts or similar agreements shall be procured under these agreements in accordance with the provisions or requirements for use and not under this subpart unless otherwise authorized by the Chief Procurement Officer.

(3) Available from One Business Only. If the supply, service, or construction item is available only from one business, the sole source procurement method set forth in subpart 3-4 of these rules

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shall be used.

(4) Division of Requirements. Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 63-56-23 of the Utah Procurement Code.

3-302 Small Purchases of Supplies, Services or Construction Between $2,000 and $20,000.

(1) Procedure. Insofar as it is practical for small purchases of supplies, services or construction between $2,000 and $20,000, no less than two businesses shall be solicited to submit telephone or written quotations. Award shall be made to the business offering the lowest acceptable quotation.

(2) Records. The names of the businesses offering quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

3-303 Small Purchases of $2,000 or Less.

The Chief Procurement Officer shall delegate to state agencies the ability to make purchases up to $2,000 without involvement of the Division of Purchasing and General Services. For purchases up to $500, the agency may select the best source without seeking competitive quotes. For purchases over $500 and up to $2,000, agencies shall obtain price competition, and shall purchase the item from the vendor offering the lowest quote. Unless otherwise delegated requests for all purchases over $2,000, and sole source purchases exceeding $500 shall be submitted to the Division of Purchasing and General Services.

3-304 Small Purchases of Services of Professionals, Providers, and Consultants.

If it is expected that the services of professionals, providers, and consultants can be procured for less than $20,000, the procedures specified in this subpart may be used.

R33-3-4. Sole Source Procurement.

3-401 Conditions For Use of Sole Source Procurement.

Sole source procurement shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item.

Examples of circumstances which could necessitate sole source procurement are:

(1) where the compatibility of equipment, accessories, replacement parts, or service is the paramount consideration;

(2) where a sole supplier's item is needed for trial use or testing;

(3) procurement of items for resale;

(4) procurement of public utility services.

The determination as to whether a procurement shall be made as a sole source shall be made by the procurement officer. Each request shall be submitted in writing by the using agency. The officer may specify the application of the determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

3-402 Negotiation in Sole Source Procurement.

The procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms.

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3-403 Unsolicited Offers.

(1) Definition. An unsolicited offer is any offer other than one submitted in response to a solicitation.

(2) Processing of Unsolicited Offers. If a purchasing agency that receives an unsolicited offer is not authorized to enter into a contract for the supplies or services offered, the head of the agency shall forward the offer to the procurement officer who has authority with respect to evaluation, acceptance, and rejection of the unsolicited offers.

(3) Conditions for Consideration. To be considered for evaluation an unsolicited offer:

(a) must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the purchasing agency; and

(b) may be subject to testing under terms and conditions specified by the agency.

R33-3-5. Emergency Procurements.

3-501 Definition of Emergency Conditions.

An emergency condition is a situation which creates a threat to public health, welfare, or safety as may arise by reason of floods, epidemics, riots, equipment failures, or other reason as may be determined by the Chief Procurement Officer or designee. The existence of this condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods.

3-502 Scope of Emergency Procurements.

Emergency procurement shall be limited to only those supplies, services, or construction items necessary to meet the emergency.

3-503 Authority to Make Emergency Procurements.

The Chief Procurement Officer may delegate in writing to any purchasing agency authority to make emergency procurements of up to an amount set forth in the delegation.

3-504 Source Selection Methods.

(1) General. The source selection method used shall be selected with a view to the end of assuring that the required supplies, services, or construction items are procured in time to meet the emergency. Given this constraint, competition that is practicable shall be obtained.

(2) After Unsuccessful Competitive Sealed Bidding. Competitive sealed bidding is unsuccessful when bids received pursuant to an Invitation for Bids are unreasonable, noncompetitive, or the low bid exceeds available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids. If emergency conditions exist after or are brought about by an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

3-505 Determination of Emergency Procurement.

The procurement officer or the agency official responsible for procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular supplier. The determination shall be sent promptly to the Chief Procurement Officer.

R33-3-6. Responsibility.

3-601 Standards of Responsibility.

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(1) Standards. Among factors to be considered in determining whether the standard of responsibility has been met are whether a prospective contractor has:

(a) available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements;

(b) a satisfactory record of integrity;

(c) qualified legally to contract with the purchasing agency; and

(d) unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility.

Nothing shall prevent the procurement officer from establishing additional responsibility standards for a particular procurement, provided that these additional standards are set forth in the solicitation.

(2) Information Pertaining To Responsibility. A prospective contractor shall supply information requested by the procurement officer concerning the responsibility of the contractor. If the contractor fails to supply the requested information, the procurement officer shall base the determination of responsibility upon any available information or may find the prospective contractor nonresponsible if the failure is unreasonable.

3-602 Ability to Meet Standards.

The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

(1) evidence that the contractor possesses the necessary items;

(2) acceptable plans to subcontract for the necessary items; or

(3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

3-603 Written Determination of Nonresponsibility Required.

If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the procurement officer. The determination shall be made part of the procurement file.

R33-3-7. Types of Contracts.

3-701 Policy Regarding Selection of Contract Types.

(1) General. The selection of an appropriate contract type depends on factors such as the nature of the supplies, services, or construction to be procured, the uncertainties which may be involved in contract performance, and the extent to which the purchasing agency or the contractor is to assume the risk of the cost of performance of the contract. Contract types differ in the degree of responsibility assumed by the contractor for the costs of performance and the amount and kind of profit incentive offered the contractor to achieve or exceed specified standards or goals.

Among the factors to be considered in selecting any type of contract are:

(a) the type and complexity of the supply, service, or construction item being procured;

(b) the difficulty of estimating performance costs such as the inability of the purchasing agency to develop definitive specifications, to identify the risks to the contractor inherent in the

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nature of the work to be performed, or otherwise to establish clearly the requirements of the contract;

(c) the administrative costs to both parties;

(d) the degree to which the purchasing agency must provide technical coordination during the performance of the contract;

(e) the effect of the choice of the type of contract on the amount of competition to be expected;

(f) the stability of material or commodity market prices or wage levels;

(g) the urgency of the requirement;

(h) the length of contract performance; and

(i) federal requirements.

The purchasing agency should not contract in a manner that would place an unreasonable economic risk on the contractor, since this action would tend to jeopardize satisfactory performance on the contract.

(2) Use of Unlisted Contract Types. The provisions of this subpart list and define the principal contract types. In addition, any other type of contract, except cost-plus-a-percentage-of-cost, may be used provided the procurement officer determines in writing that this use is in the purchasing agency's best interest.

3-702 Fixed-Price Contracts.

(1) General. A fixed-price contract is the preferred and generally utilized type of contract. A fixed-price contract places responsibility on the contractor for the delivery of the product or the complete performance of the services or construction in accordance with the contract terms at a price that may be firm or subject to contractually specified adjustments. The fixed-price contract is appropriate for use when there is a reasonably definitive requirement, as in the case of construction or standard commercial products. The use of a fixed-price contract when risks are unknown or not readily measurable in terms of cost can result in inflated prices and inadequate competition; poor performance, disputes, and claims when performance proves difficult; or excessive profits when anticipated contingencies do not occur.

(2) Firm Fixed-Price Contract. A firm fixed-price contract provides a price that is not subject to adjustment.

(3) Fixed-Price Contract with Price Adjustment.

(a) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contract price can be made shall be specified in the solicitation and the resulting contract. However, clauses providing for most-favored-customer prices for the purchasing agency, that is, the price to the purchasing agency will be lowered to the lowest priced sales to any other customer made during the contract period, shall not be used. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

(i) changes in the contractor's labor contract rates;

(ii) changes due to rapid and substantial price fluctuations, which can be related to an accepted index; and

(iii) when a general price change alters the base price.

(b) If the contract permits unilateral action by the contractor to bring about the condition

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under which a price increase may occur, the contract shall reserve to the purchasing agency the right to reject the price increase and terminate the contract without cost or damages. Notice of the price increase shall be given by the contractor in the manner and within the time specified in the contract.

3-703 Cost-Reimbursement Contracts.

(1) General. The cost-reimbursement contract provides for payment to the contractor of allowable costs incurred in the performance of the contract as determined in accordance with part 7 of these rules and provided in the contract. This type of contract establishes at the outset an estimated cost for the performance of the contract and a dollar ceiling which the contractor may not exceed without prior approval of subsequent ratification by the procurement officer and, in addition, may provide for payment of a fee. The contractor agrees to perform as specified in the contract until the contract is completed or until the costs reach the specified ceiling, whichever occurs first.

This contract type is appropriate when the uncertainties involved in contract performance are of a magnitude that the cost of contract performance cannot be estimated with sufficient reasonableness to permit use of any type of fixed-price contract. In addition, a cost-reimbursement contract necessitates appropriate monitoring by purchasing agency personnel during performance so as to give reasonable assurance that the objectives of the contract are being met. It is particularly suitable for research, development, and study-type contracts.

(2) Determination Prior to Use. A cost-reimbursement contract may be used only when the procurement officer determines in writing that:

(a) a contract is likely to be less costly to the purchasing agency than any other type or that it is impracticable to obtain otherwise, the supplies, services, or construction;

(b) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

(c) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

(3) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract.

(4) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract which provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable, incurred costs. The fee is established at the time of contract award and does not vary whether the actual cost of contract performance is greater or less than the initial estimated cost established for the work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the work specified in the contract.

3-704 Cost Incentive Contracts.

(1) General. Cost incentive contracts provide for the sharing of cost risks between the purchasing agency and the contractor. This type of contract provides for the reimbursement to the contractor of allowable costs incurred up to a ceiling amount and establishes a formula in which the contractor is rewarded for performing at less than target cost or is penalized if it exceeds target cost. Profit or fee is dependent on how effectively the contractor controls cost in the performance of the contract.

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(2) Fixed-Price Cost Incentive Contract.

(a) Description. In a fixed-price cost incentive contract, the parties establish at the outset a target cost, a target profit, a cost-sharing formula which provides a percentage increase or decrease of the target profit depending on whether the cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable cost as determined in accordance with part 7 of these rules and as provided in the contract. The final contract price is then established in accordance with the cost-sharing formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual cost exceeds the ceiling price, the contractor suffers a loss.

(b) Objective. The fixed-price cost incentive contract serves three objectives. It permits the establishment of a firm ceiling price for performance of the contract which takes into account uncertainties and contingencies in the cost of performance. It motivates the contractor to perform the contract economically since cost is in inverse relation to profit; the lower the cost, the higher the profit. It provides a flexible pricing mechanism for establishing a cost sharing responsibility between the purchasing agency and contractor depending on the nature of the supplies, services, or construction being procured, the length of the contract performance, and the performance risks involved.

(3) Cost-Plus Contract with Cost Incentive Fee. In a cost-plus contract with cost incentive fee, the parties establish at the outset a target cost; a target fee; a cost-sharing formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling which represents the maximum amount which the purchasing agency is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed in accordance with part 7 of these rules and as provided in the contract are applied in the cost-sharing formula to establish the incentive fee payable to the contractor. This type contract gives the contractor a stronger incentive to efficiently manage the contract than a cost-plus-fixed-fee contract provides.

(4) Determinations Required. Prior to entering into any cost incentive contract, the procurement officer shall make the written determination required by subsections 3-703(2)(b) and (c) of these rules. In addition, prior to entering any cost-plus contract with cost incentive fee, the procurement officer shall include in the written determination the determination required by subsection 3-703(2)(a) of these rules.

3-705 Performance Incentive Contracts.

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula for increasing or decreasing the compensation if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus while late completion may entitle the purchasing agency to a price decrease.

3-706 Time and Materials Contracts; Labor Hour Contracts.

(1) Time and Materials Contracts. Time and materials contracts provide for payment for materials at cost and labor performed at an hourly rate which includes overhead and profit. These

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contracts provide no incentives to minimize costs or effectively manage the contract work. Consequently, all such contracts shall contain a stated cost ceiling and shall be entered into only after the procurement officer determines in writing that:

(a) personnel have been assigned to closely monitor the performance of the work; and

(b) no other type of contract will suitably serve the purchasing agency's purpose.

(2) Labor Hour Contracts. A labor hour contract is the same as a time and materials contract except the contractor supplies no material. It is subject to the same considerations, and the procurement officer shall make the same determinations before it is used.

3-707 Definite Quantity and Indefinite Quantity Contracts.

(1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

(2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished as ordered that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available is stated in the solicitation. The contract may provide a minimum quantity the purchasing agency is obligated to order and may also provide for a maximum quantity provision that limits the purchasing agency's obligation to order. The time of performance of an indefinite quantity contract may be extended upon agreement of the parties provided the extension is for 90 days or less and the procurement officer determines in writing that it is not practical to award another contract at the time of the extension.

(3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that obligates the purchasing agency to order all the actual, normal requirements of designated using agencies during a specified period of time; and for the protection of the purchasing agency and the contractor. Invitations for Bids and resulting requirements contracts shall include a provision. However, the purchasing agency may reserve in the solicitation and in the resulting contract the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract. Requirements contracts shall contain an exemption from ordering under the contract when the procurement officer approves a finding that the supply or service available under the contract will not meet a nonrecurring, special need of the purchasing agency.

3-708 Progressive and Multiple Awards.

(1) Progressive Award. A progressive award is an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity procured. A progressive award may be in the purchasing agency's best interest when awards to more than one bidder or offeror for different amounts of the same item are needed to obtain the total quantity or the time or times of delivery required.

(2) Multiple Award. A multiple award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror, and the purchasing agency is obligated to order all of its actual, normal requirements for the specified supplies or services from those contractors. A multiple award may be in the purchasing agency's best interest when award to two or more bidders or offerors for similar products is needed for adequate delivery, service, or availability, or for product compatibility. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet the purchasing agency's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making

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available product or supplier selection to allow for user preference, or avoiding the resolution of tie bids. Any awards shall be limited to the least number of suppliers necessary to meet the valid requirements of using agencies. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the requirements of the users that can be met under the contract be obtained in accordance with the contract, provided, that:

(a) the purchasing agency shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract; or

(b) the purchasing agency shall reserve the right to take bids separately if the procurement officer approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the agency.

(3) Intent to Use. If a progressive or multiple award is anticipated prior to issuing a solicitation, the method of award shall be stated in the solicitation.

3-709 Leases.

(1) Use. A lease may be entered into provided:

(a) it is in the best interest of the purchasing agency;

(b) all conditions for renewal and costs of termination are set forth in the lease; and

(c) the lease is not used to avoid a competitive procurement.

(2) Competition. Lease and lease-purchase contracts are subject to the requirements of competition which govern the procurement of supplies.

(3) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive bidding or competitive proposals, unless the requirement can be met only by the supply or facility being leased as determined in writing by the procurement officer. Before exercising this option, the procurement officer shall:

(a) investigate alternative means of procuring comparable supplies or facilities; and

(b) compare estimated costs and benefits associated with the alternative means and the exercise of the option, for example, the benefit of buying new state of the art data processing equipment compared to the estimated, initial savings associated with exercise of a purchase option.

3-710 Multi-Year Contracts; Installment Payments.

(1) Use. A contract may be entered into which extends beyond the current fiscal period provided any obligation for payment in a succeeding fiscal period is subject to the availability of funds.

(2) Termination. A multi-year contract may be terminated without cost to the purchasing agency by reason of unavailability of funds for the purpose or for lack of performance by the contractor. Termination for other reason shall be as provided by the contract.

(3) Installment Payments. Supply contracts may provide for installment purchase payments, including interest charges, over a period of time. Installment payments, however, should be used judiciously in order to achieve economy and not to avoid budgetary restraints, and shall be justified in writing by the head of the using agency. Heads of using agencies shall be responsible for ensuring that statutory or other prohibitions are not violated by use of installment provisions and that all budgetary or other required prior approvals are obtained. No agreement shall be used unless provision for installment payments is included in the solicitation document.

3-711 Contract Option.

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(1) Provision. Any contract subject to an option for renewal, extension, or purchase, shall have had a provision included in the solicitation. When a contract is awarded by competitive sealed bidding, exercise of the option shall be at the purchasing agency's discretion only, and not subject to agreement or acceptance by the contractor.

(2) Exercise of Option. Before exercising any option for renewal, extension, or purchase, the procurement officer should attempt to ascertain whether a competitive procurement is practical, in terms of pertinent competitive and cost factors, and would be more advantageous to the purchasing agency than renewal or extension of the existing contract.

R33-3-8. Cost or Pricing Data and Analysis; Audits.

3-801 Scope.

This subpart sets forth the pricing policies which are applicable to contracts of any type and any included price adjustments when cost or pricing data are required to be submitted.

3-802 Requirements for Cost or Pricing Data.

(1) Submission of Cost or Pricing Data - Required. Cost or pricing data shall be required in support of a proposal leading to:

(a) the pricing of any contract expected to exceed $100,000 to be awarded by competitive sealed proposals or sole source procurement; or

(b) the pricing of any adjustment to any contract, including a contract, awarded by competitive sealed bidding, whether or not cost pricing data was required in connection with the initial pricing of the contract, as requested by the procurement officer. However, this requirement shall not apply when unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience.

(2) Submission of Cost or Pricing Data - Permissive. After making determination that circumstances warrant action, the procurement officer may require the offeror or contractor to submit cost or pricing data in any other situation except where the contract award is made pursuant to competitive sealed bidding. Generally, cost or pricing data should not be required where the contract or modification is less than $2;000. Moreover, when less than complete cost analysis will provide a reasonable pricing result on awards or for change orders without the submission of complete cost or pricing data, the procurement officer shall request only that data considered adequate to support the limited extent of the cost analysis needed and need not require certification.

(3) Exceptions. Cost or pricing data need not be submitted and certified:

(a) where the contract price is based on:

(i) adequate price competition;

(ii) established catalog prices or market prices, if trade discounts are reflected in the prices; or

(iii) prices set by law or rule; or

(b) when the procurement officer determines in writing that the requirements for submitting cost or pricing data may be waived and the reasons for the waiver are stated in the determination. A copy of the determination shall be kept in the contract file and made available to the public upon request. If, after cost or pricing data were initially requested and received, it is determined that adequate price competition does exist, the data need not be certified.

If, despite the existence of an established catalog price or market price, the procurement

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officer considers that a price appears unreasonable, cost or pricing data may be requested. Where the reasonableness of the price can be assured by limited data pertaining to the differences in the item or services, requests should be so limited.

3-803 Submission of Cost or Pricing Data and Certification.

Cost or pricing data shall be submitted to the procurement officer at the time and in the manner prescribed in these rules or as otherwise from time to time prescribed by the procurement officer. When the procurement officer requires the offeror or contractor to submit cost or pricing data in support of any proposal, the data shall either be actually submitted or specifically identified in writing. When cost or pricing data is required, the data is to be submitted prior to beginning price negotiation and the offeror or contractor is required to keep the submission current throughout the negotiations. The offeror or contractor shall certify, as soon as practicable after agreement is reached on price, that the cost or pricing data submitted is accurate, complete, and current as of a mutually determined date prior to reaching agreement. Certification shall be made using the certificate set forth in section 3-804 of this subpart. A refusal by the offeror to supply the required data shall be referred to the procurement officer whose duty shall be to determine in writing whether to disqualify the noncomplying offeror, to defer award pending further investigation, or to enter into the contract. A refusal by a contractor to submit the required data to support a price adjustment shall be referred to the procurement officer who shall determine in writing whether to further investigate the price adjustment, not to allow any price adjustment, or to set the amount of the price adjustment.

3-804 Certificate of Current Cost or Pricing Data.

(1) Form of Certificate. When cost or pricing data must be certified, the certificate set forth below shall be included in the contract file along with any award documentation required under these rules. The offeror or contractor shall be required to submit the certificate as soon as practicable after agreement is reached on the contract price or adjustment.

"CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, cost or pricing data as defined in the Utah Procurement Rules submitted, either actually or by specific identification in writing, to the procurement officer in support of . . ., are accurate, complete, and current as of date, month and year. . . The effective date shall be the date when price negotiations were concluded and the contract price was agreed to. The responsibility of the offeror or contractor is not limited by the personal knowledge of the offeror's or contractor's negotiator if the offeror or contractor had information reasonably available at the time of agreement, showing that the negotiated price is not based on accurate, complete, and current data.

This certification includes the cost or pricing data supporting any advance agreement(s) between the offeror and the purchasing agency which are part of the proposal.

Firm

Name

Title

Date of Execution . . . (This date should be as close as practical to the date when the price negotiations were concluded and the contract price was agreed to.)"

(End of Certificate)

(2) Limitation of Representation. Because the certificate pertains to cost or pricing data, it is not to be construed as a representation as to the accuracy of the offeror's or contractor's judgment

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on the estimated portion of future costs or projections. It does, however, apply to the data upon which the offeror's or contractor's judgment is based. A certificate of current cost or pricing data is not a substitute for examination and analysis of the offeror's or contractor's proposal.

(3) Inclusion of Notice and Contract Clause. Whenever it is anticipated that a certificate of current cost or pricing data may be required, a clause giving notice of this requirement shall be included in the solicitation. If a certificate is required, the contract shall include a clause giving the purchasing agency a contract right to a price adjustment, that is, to a reduction in the price to what it would have been if the contractor had submitted accurate, complete, and current data.

(4) Exercise of Option. The exercise of an option at the price established in the initial negotiation in which certified cost or pricing data were used does not require recertification or further submission of data.

3-805 Defective Cost or Pricing Data.

(1) Overstated Cost or Pricing Data. If certified cost or pricing data is subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the purchasing agency shall be entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is assumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Unless there is a clear indication that the defective data were not used or relied upon, the price should be reduced in this amount. In establishing that the defective data caused an increase in the contract price, the procurement officer is not expected to reconstruct the negotiation by speculating as to what would have been the mental attitudes of the negotiating parties if the correct data had been submitted at the time of agreement on price.

(2) Understated Cost or Pricing Data. In determining the amount of an adjustment, the contractor shall be entitled to an adjustment for any understated cost or pricing data submitted in support of price negotiations for the same pricing action up to the amount of the purchasing agency's claim for over stated cost or pricing data arising out of the same pricing action.

(3) Dispute as to Amount. If the contractor and the procurement officer cannot agree as to the amount of adjustment due to defective cost or pricing data, the procurement officer shall set an amount in accordance with subsections 3-805(1) and 3-805(2) of this subpart.

3-806 Price Analysis Techniques.

Price analysis is used to determine if a price is reasonable and acceptable. It involves a comparison of the prices for the same or similar items or services. Examples of price analysis criteria include:

(1) price submissions of other prospective bidders or offerors;
(2) prior price quotations and contract prices charged by any bidder, offeror, or contractor;
(3) prices published in catalogs or price lists; and
(4) prices available on the open market.

In making an analysis, consideration must be given to any differing delivery factors and contractual provisions, terms and conditions.

3-807 Cost Analysis Techniques.

(1) General. Cost analysis includes the appropriate verification of cost or pricing data, and the use of this data to evaluate:

(a) specific elements of costs;

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(b) the necessity for certain costs;

(c) the reasonableness of amounts estimated for the necessary costs;

(d) the reasonableness of allowances for contingencies;

(e) the basis used for allocation of indirect costs;

(f) the appropriateness of allocations of particular indirect costs to the proposed contract; and

(g) the reasonableness of the total cost or price.

(2) Evaluations. Evaluations of cost or pricing data should include comparisons of costs and prices of an offeror's cost estimates with those of other offerors and any independent price and cost estimates. They shall also include consideration of whether the costs are reasonable and allocable under these rules.

3-808 Audit.

(1) The procurement officer may, at reasonable times and places, audit or cause to be audited, the books and records of a contractor, prospective contractor, subcontractor, or prospective subcontractor which are related to:

(a) the cost or pricing data submitted;

(b) a contract, including subcontracts, other than a firm fixed-price contract, awarded pursuant to these rules and the Utah Procurement Code.

(2) An audit performed by an auditor selected or approved by the procurement officer shall be submitted containing at least the following information:

(a) for cost and pricing data audits:

(i) a description of the original proposal and all submissions of cost or pricing data;

(ii) an explanation of the basis and the method used in preparing the proposal;

(iii) a statement identifying any cost or pricing data not submitted but examined by the auditor which has a significant affect on the proposed cost or price;

(iv) a description of any deficiency in the cost or pricing data submitted and an explanation of its affect on the proposal;

(v) a statement summarizing those major points where there is a disagreement as to the cost or pricing data submitted; and

(vi) a statement identifying any information obtained from other sources;

(b) the number of invoices or reimbursement vouchers submitted by the contractor or subcontractor for payment;

(c) the use of federal assistance funds; or

(d) the fluctuation of market prices affecting the contract.

The scope of the audit may be limited by the procurement officer.

(3) For contract audits, the scope of the report will depend on the scope of the audit ordered. However, the report should contain specific reference to the terms of the contract to which the audited data relates and a statement of the degree to which the auditor believes the audited data evidence compliance with those terms.

3-809 Retention of Books and Records.

(1) Relating to Cost and Pricing Data. Any contractor who receives a contract, change order, or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three years from the date of final payment under the contract.

(2) Relating to Other than Firm Fixed-Price Contracts. Books and records that relate to a

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contract in excess of $25,000, including subcontracts, other than a firm fixed-price contract, shall be maintained:

(a) by a contractor, for three years from the date of final payment under the contract; and

(b) by a subcontractor, for three years from the date of final payment under the subcontract.

R33-3-9. Plant or Site Inspection; Inspection of Supplies or Services.

3-901 Inspection of Plant or Site.

Circumstances under which the purchasing agency may perform inspections include inspections of the contractor's plant or site in order to determine:

(1) whether the standards set forth in section 3-601 have been met or are capable of being met; and

(2) if the contract is being performed in accordance with its terms.

3-902 Access to Plant or Place of Business.

The purchasing agency may enter a contractor's or subcontractor's plant or place of business to:

(1) inspect supplies or services for acceptance by the purchasing agency pursuant to the terms of a contract;

(2) audit cost or pricing data or audit the books and records of any contractor or subcontractor pursuant to Section 63-56-28 subsection (5) of the Utah Procurement Code; and

(3) investigate in connection with an action to debar or suspend a person from consideration for award of contracts pursuant to Section 63-56-48 of the Utah Procurement Code.

3-903 Inspection of Supplies and Services.

(1) Provisions for Inspection. Contracts may provide that the purchasing agency may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements or, after award, to contract requirements, and are acceptable. These inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

(2) Trial Use and Testing. The procurement officer is authorized to establish operational procedures governing the testing and trial use of various equipment, materials, and supplies by any using agency, and the relevance and use of resulting information to specifications and procurements.

3-904 Conduct of Inspections.

(1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector may change any provision of the specifications or the contract without written authorization of the procurement officer. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

(2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

(3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

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3-905 Inspection of Construction Projects.

On-site inspection of construction shall be performed in accordance with the terms of the contract.

References: 63-56.

History: 9537, AMD, 10/13/88; 11828, AMD, 07/25/91; 14382, AMD, 06/10/93; 16034, NSC, 10/01/94; 16646, NSC, 02/01/95; 16898, AMD, 07/30/95; 18050, AMD, 10/21/96.

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f.

Administrative Rule R33-5—Construction and Architect-Engineer Selection

R33-5. Construction and Architect-Engineer Selection.

R33-5-101. Purpose and Authority.
R33-5-102. Application.
R33-5-201. Methods of Construction Contract Management.
R33-5-220. Selection Documentation.
R33-5-230. Single Prime Contractor: Use with Sequential Design and Construction.
R33-5-231. Single Prime Contractor: Use with Phased Design and Construction.
R33-5-232. Single Prime Contractor: Contractual Provisions.
R33-5-240. Multiple Prime Contractors: Use with Sequential Design and Construction, and with Phased Design and Construction.
R33-5-241. Multiple Prime Contractors: Contractual Provisions.
R33-5-250. Design-Build or Turnkey: Use.
R33-5-251. Design-Build or Turnkey: Contractual Provisions.
R33-5-260. Construction Manager: Use.
R33-5-262. Construction Manager: Contractual Provisions.
R33-5-270. Sequential Design and Construction: Use.
R33-5-280. Phased Design and Construction: Use.
R33-5-281. Phased Design and Construction: Contractual Provisions.
R33-5-311. Bid Security: General.
R33-5-312. Bid Security: Acceptable Bid Security.
R33-5-313. Bid Security: Nonsubstantial Failure to Comply.
R33-5-321. Performance Bonds: General.
R33-5-331. Payment Bonds: General.
R33-5-341. Bond Forms.
R33-5-350. Waiver of Bonding Requirements on Any Project.
R33-5-355. Waiver of Bonding Requirements on Small Projects.
R33-5-401. Construction Contract Clauses: Introduction.
R33-5-402. Mandatory Construction Contract Clauses.
R33-5-403. Optional Construction Contract Clauses.
R33-5-410. Construction Contract Clauses: Revisions to Contract Clauses.
R33-5-420. Construction Contract Clauses: Changes Clause.
R33-5-430. Construction Contract Clauses: Variations in Estimated Quantities Clause.
R33-5-440. Construction Contract Clauses: Suspension of Work Clause.
R33-5-450. Construction Contract Clauses: Differing Site Conditions Clause.
R33-5-460. Construction Contract Clauses: Price Adjustment Clause.
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R33-5-480. Construction Contract Clauses: Default-Delay-Time Extensions Clause.
R33-5-490. Construction Contract Clauses: Liquidated Damages Clause.
R33-5-495. Construction Contract Clauses: Termination for Convenience Clause.
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R33-5-520. Policy.
R33-5-525. Annual Statement of Qualifications and Performance Data.
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R33-5-570. Definition of Scope of Work.
R33-5-580. Evaluation of Statements of Interest, Qualifications and Performance Data.
R33-5-590. Selection of Firms for Discussions.
R33-5-600. Discussions.
R33-5-610. Selection of the Most Qualified Firms.
R33-5-620. Negotiation and Award of Contract.
R33-5-630. Failure to Negotiate Contract with the Most Qualified Firm.
R33-5-640. Notice of Award.
R33-5-650. Failure to Negotiate Contract with Firms Initially Selected as Most Qualified.

R33-5-101. Purpose and Authority.

As required by Sections 63-56-36, 63-56-38 (2), 63-56-39 and 63-56-40 (1), this rule contains provisions applicable to:

(1) selecting the appropriate method of management for construction contracts, that is, the contracting method and configuration that will most likely result in timely, economical, and otherwise successful completion of the construction project.

(2) establishing appropriate bid, performance, and payment bond requirements including criteria allowing for waiver of these requirements.

(3) governing appropriate contract provisions.

R33-5-102. Application.

The provisions of this chapter shall apply to all procurements of construction which are estimated to be greater than $20,000. Procurement of construction expected to be less than $20,000 shall be made in accordance with R33-3-3 (Small Purchases) except bid, performance and payment bonds shall be required unless waived in accordance with R33-5-355 (Waiver of Bonding Requirements on Small Projects).

R33-5-201. Methods of Construction Contract Management.

(1) Application. This section contains provisions applicable to the selection of the appropriate type of construction contract management.

(2) Flexibility. It is intended that the Procurement Officer have sufficient flexibility in formulating the construction contract management method for a particular project to fulfill the needs of the procuring agencies. In each instance consideration commensurate with the project's size and importance should be given to all the appropriate and effective means of obtaining both the design and construction of the project. The methods for achieving the purposes set forth in

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this rule are not to be construed as an exclusive list.

(3) Selecting the Method of Construction Contracting. In selecting the construction contracting method, the Procurement Officer should consider the results achieved on similar projects in the past and the methods used. Consideration should be given to all appropriate and effective methods and their comparative advantages and disadvantages and how they might be adapted or combined to fulfill the needs of the procuring agencies.

(4) Criteria for Selecting Construction Contracting Methods. Before choosing the construction contracting method to use, a careful assessment must be made by the Procurement Officer of requirements the project must satisfy and those other characteristics that would be desirable. Some of the factors to consider are:

(a) when the project must be ready to be occupied;

(b) the type of project, for example, housing, offices, labs, heavy or specialized construction;

(c) the extent to which the requirements of the procuring agencies and the ways in which they are to be met are known;

(d) the location of the project;

(e) the size, scope, complexity, and economics of the project;

(f) the amount and type of financing available for the project, including whether the budget is fixed or what the source of funding is, for example, general or special appropriation, federal assistance moneys, general obligation bonds or revenue bonds, lapsing/nonlapsing status and legislative intent language;

(g) the availability, qualification, and experience of State personnel to be assigned to the project and how much time the State personnel can devote to the project;

(h) the availability, experience and qualifications of outside consultants and contractors to complete the project under the various methods being considered.

(5) General Descriptions.

(a) Use of Descriptions. The following descriptions are provided for the more common contracting methods. The methods described are not all mutually exclusive and may be combined on a project. These descriptions are not intended to be fixed in respect to all construction projects of the State. In each project, these descriptions may be adapted to fit the circumstances of that project. However, the Procurement Officer should endeavor to ensure that these terms are described adequately in the appropriate contracts, are not used in a misleading manner, and are understood by all relevant parties.

(b) Single Prime Contractor. The single prime contractor method is typified by one business, acting as a general contractor, contracting with the state to timely complete an entire construction project in accordance with drawings and specifications provided by the state. Generally the drawings and specifications are prepared by an architectural or engineering firm under contract with the state. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with whom the prime contractor has entered into subcontracts.

(c) Multiple Prime Contractors. Under the multiple prime contractor method, the State or the State's agent contracts directly with a number of specialty contractors to complete portions of the project in accordance with the State's drawings and specifications. The State or its agent may have primary responsibility for successful completion of the entire project, or the contracts may provide that one of the multiple prime contractors has this responsibility.

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(d) Design-Build. In a design-build project, a business contracts directly with the State to meet the State's requirements as described in a set of performance specifications. Design responsibility and construction responsibility both rest with the design-build contractor. This method can include instances where the design-build contractor supplies the site as part of the package.

(e) Construction Manager. A construction manager is a person experienced in construction that has the ability to evaluate and to implement drawings and specifications as they affect time, cost, and quality of construction and the ability to coordinate the construction of the project, including the administration of change orders. The State may contract with the construction manager early in a project to assist in the development of a cost effective design. The construction manager may become the single prime contractor, or may guarantee that the project will be completed on time and will not exceed a specified maximum price. This method is frequently used on fast track projects with the construction manager obtaining subcontractors through the issuance of multiple bid packages as the design is developed. The procurement of a construction manager may be based, among other criteria, on proposals for a management fee which is either a lump sum or a percentage of construction costs with a guaranteed maximum cost. If the design is sufficiently developed prior to the selection of a construction manager, the procurement may be based on proposals for a lump sum or guaranteed maximum cost for the construction of the project. The contract with the construction manager may provide for a sharing of any savings which are achieved below the guaranteed maximum cost.

(f) Sequential Design and Construction. Sequential design and construction denotes a method in which design of substantially the entire structure is completed prior to beginning the construction process.

(g) Phased Design and Construction. Phased design and construction denotes a method in which construction is begun when appropriate portions have been designed but before design of the entire structure has been completed. This method is also known as fast track construction.

R33-5-220. Selection Documentation.

The Procurement Officer shall include in the contract file a written statement, describing the construction contracting method chosen and the facts and conclusions which led to the selection of that method. The statement shall demonstrate that the State's requirements and resources, and the various groups of potential contractors were appropriately considered in making the selection.

R33-5-230. Single Prime Contractor: Use with Sequential Design and Construction.

When a single prime contractor is used with the sequential design and construction method, comprehensive plans and specifications that are precise enough shall be prepared to allow prospective prime (general) contractors to submit a competitive sealed bid. The prime contractor awarded the contract shall be responsible for the coordination of the specialty subcontractors and for the timely completion of the project at the price specified in the contract. The architect-engineer, the State project manager, and, if used, the construction manager shall monitor the progress of the project and otherwise represent the State's interest as required by contract.

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R33-5-231. Single Prime Contractor: Use with Phased Design and Construction.

A single prime contractor may be used with the phased design and construction method. Under this approach, the State will let contracts for early construction phases to specialty contractors and when the plans and specifications are sufficiently complete to allow bids to be made will let the major project contract to a prime contractor. If the State finds it administratively and economically advantageous, the State may transfer or assign to the prime contractor the administration of the specialty contracts it let earlier.

R33-5-232. Single Prime Contractor: Contractual Provisions.

The rights, duties, and responsibilities of the State representatives, the architect-engineer, prime contractor(s), and, if applicable, the construction manager and any specialty contractors awarded projects with the State shall be carefully detailed in contracts. If phased design and construction is used, administration of ongoing specialty contracts let before the prime contract will have to be transferred or assigned to the prime contractor. The terms of this assignment or transfer (including the duties of the State to ensure that the specialty contractors are at a certain point of completion at the time of assignment), what liability to the specialty contractors remains with the State after assignment, if any, and what duties and responsibilities the prime contractor has with respect to the assigned specialty contractors shall all be set forth in the specialty contracts and the contract with the prime contractor.

R33-5-240. Multiple Prime Contractors: Use with Sequential Design and Construction, and with Phased Design and Construction.

(1) Multiple prime contractors may be used with sequential design and construction by splitting the plans and specifications into packages pertinent to recognized trade specialties. The State may undertake to manage and coordinate the project's work or contracts with a construction manager. The contracts may provide that responsibility for successful completion of the entire project rests with the State, the State's agent, or one of the multiple prime contractors. The contracts shall specify where this responsibility shall rest.

(2) Multiple prime contractors may be used with phased design and construction only when the architect-engineer's work is closely coordinated with the specialty contractors' work. Under this method, the specialty contractors shall contract directly with the State or with its construction manager.

R33-5-241. Multiple Prime Contractors: Contractual Provisions.

Whenever multiple prime contractors are used, the contract between the State and each prime contractor shall:

(1) state the scope of each contractor's responsibility.

(2) identify when the portions of its work are to be complete.

(3) provide for a system of timely reports on progress of the contractor's work and problems encountered.

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(4) specify that each contractor is liable for damages caused other contractors and the State whether because of delay or otherwise.

(5) clearly delineate in all the parties' contracts the duties and authority of the State representative, the architect-engineer and, if one is employed, the construction manager with respect to the specialty contractors .

These contract clauses may not relieve the State of liability if it fails to properly coordinate and manage the project.

R33-5-250. Design-Build or Turnkey: Use.

(1) When the design-build or turnkey method is used the State shall:

(a) prepare a set of performance specifications including functional criteria, any life-cycle cost considerations, and other evaluation factors.

(b) specify the degree of detail necessary in the design proposal.

(c) shall select the contractor on the basis of the evaluation criteria stated in the solicitation.

(2) To ensure adequate continuing competition, the State may provide in the solicitation for payment of a stipulated stipend for proposal preparation costs, or a portion thereof.

R33-5-251. Design-Build or Turnkey: Contractual Provisions.

The contract documents shall:

(1) delineate clearly the State's rights to inspect plans and specifications, and the construction work in progress.

(2) indicate precisely what constitutes completion of the project by the contractor.

R33-5-260. Construction Manager: Use.

The State may contract with the construction manager early in a project to assist in the development of a cost effective design. The construction manager may become the single prime contractor, or may guarantee that the project will be completed on time and will not exceed a specified maximum price. This method is frequently used on fast track projects with the construction manager obtaining subcontractors through the issuance of multiple bid packages as the design is developed. The procurement of a construction manager may be based, among other criteria, on proposals for a management fee which is either a lump sum or a percentage of construction costs with a guaranteed maximum cost. If the design is sufficiently developed prior to the selection of a construction manager, the procurement may be based on proposals for a lump sum or guaranteed maximum cost for the construction of the project. The contract with the construction manager may provide for a sharing of any savings which are achieved below the guaranteed maximum cost.

R33-5-262. Construction Manager: Contractual Provisions.

The construction managers contract shall clearly set forth the duties and authority of the construction manager in respect to all the participants in the project. The contract shall also define the liability of the State and the construction manager for failure to properly coordinate

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specialty contractors' work.

R33-5-270. Sequential Design and Construction: Use.

When the state selects the sequential design and construction method, it shall gather a team to design the project and provide a complete set of drawings and specifications to use in awarding the construction contract or contracts. When this team uses a construction manager he may, in addition to reviewing the drawings and specifications, assist in separating them into packets when multiple prime contractors are used. Except for redesign necessitated by changes in State requirements or problems encountered during construction, design is complete at the time construction has begun.

R33-5-280. Phased Design and Construction: Use.

When the phased design and construction method is used the architect-engineer, and construction manager, (if one is used) shall resolve major design decisions, and shall prepare the detail design work in the sequence necessary to construct the project. Thus construction can begin before design is complete for the entire project. Construction shall only begin after the State's requirements are set, the overall (schematic) design is complete, and the complete drawings and specifications for the first construction phase are ready. The construction manager may also assist in packaging the various specialty contracts and to managing the work under those contracts.

R33-5-281. Phased Design and Construction: Contractual Provisions.

Contracts shall clearly establish:

(1) architect-engineer's obligation to design the project in a manner that allows for phased construction to allow phasing of project design.

(2) specialty contractors scope of work and duties to other contractors and the State.

(3) the management rights of the State and its construction manager when used.

R33-5-311. Bid Security: General.

Invitations for Bids on State construction contracts estimated to exceed $20,000 shall require the submission of bid security in an amount equal to at least 5% of the bid, at the time the bid is submitted. If a contractor fails to accompany its bid with the required bid security, the bid shall be deemed nonresponsive, in accordance with Section R33-3-112 (Bid Evaluation and Award, Responsibility and Responsiveness) except as provided by Section R33-5-313.

R33-5-312. Bid Security: Acceptable Bid Security.

Acceptable bid security shall be limited to:

(a) a bid bond in a form satisfactory to the State underwritten by a company licensed to issue bid bonds in this State;

(b) a cashiers, certified, or official check drawn by a federally insured financial institution; or

(c) cash.

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R33-5-313. Bid Security: Nonsubstantial Failure to Comply.

If a bid does not comply with the security requirements of this Rule, the bid shall be rejected as nonresponsive, unless the failure to comply is determined by the Chief Procurement Officer, the head of a Purchasing Agency, or the designee of such officer to be nonsubstantial where:

(a) only one bid is received, and there is not sufficient time to rebid the contract;

(b) the amount of the bid security submitted, though less than the amount required by the Invitation for Bids, is equal to or greater than the difference in the price stated in the next higher acceptable bid; or

(c) the bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification in accordance with Section R33-3-111 (Mistakes in Bids), if the bidder increases the amount of guarantee to required limits within 48 hours after the bid opening.

R33-5-321. Performance Bonds: General.

A performance bond on the exact form provided in R33-5-342 is required for all construction contracts in excess of $20,000, in the amount of 100% of the contract price. The performance bond shall be delivered by the contractor to the State at the same time the contract is executed. If a contractor fails to deliver the required performance bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest bidder in accordance with Section R33-3-112 (Bid Evaluation and Award, Responsibility and Responsiveness).

R33-5-331. Payment Bonds: General.

A payment bond on the exact form provided in R33-5-343 is required for all construction contracts in excess of $20,000, in the amount of 100% of the contract price. The payment bond shall be delivered by the contractor to the State at the same time the contract is executed. If a contractor fails to deliver the required payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest bidder in accordance with Section R33-3-112 (Bid Evaluation and Award, Responsibility and Responsiveness).

R33-5-341. Bond Forms.

(a) Bid Bonds, Payment Bonds and Performance Bonds must be from sureties meeting the requirements of Subsection R33-5-342(b) and must be on the exact bond forms most recently adopted by the Board and on file with the chief procurement officer, except bid bonds for projects under $1,000,000 as provided by subparagraph (c).

(b) Surety firm requirements. All surety firms must be authorized to do business in the State of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A cosurety may be utilized to satisfy this requirement.

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(c) For projects estimated to cost less than $ 1,000,000 the State may accept bid bonds on forms provided by appropriately licensed sureties. For projects estimated to exceed $1,000,000 the bid bond shall be on the exact bid bond forms adopted by the board as required by R33-5-341(a).

R33-5-350. Waiver of Bonding Requirements on Any Project.

The chief procurement officer, or head of the purchasing agency, may waive the bonding requirement if he finds, in writing, that bonds cannot reasonably be obtained for the work involved. Prior to waiver of the bonding requirement, the head of the requesting agency or designee shall agree in writing to the waiver. The agency will also be advised that the State cannot waive the liability associated with a judgment against the State, in the event of non-payment to a subcontractor or supplier In the event of a judgment, the requesting agency would be required to make payment to the injured party.

R33-5-355. Waiver of Bonding Requirements on Small Projects.

The Chief Procurement Officer, or designated procurement official, may elect not to require a Performance or Payment Bond as required under Section 63-56-38 Utah Code Annotated, 1953 as amended, if the estimated total procurement does not exceed $20,000. Prior to waiver of the bonding requirement, the head of the requesting agency or designee shall agree in writing to the waiver. The agency will also be advised that the State cannot waive the liability associated with a judgment against the State, in the event of non-payment to a subcontractor or supplier. In the event of a judgment, the requesting agency would be required to make payment to the injured party.

R33-5-401. Construction Contract Clauses: Introduction.

The contract clauses presented in this rule are promulgated for use in construction contracts in accordance with Section 63-56-40 (Contract Clauses) of the Utah Procurement Code. Alternative clauses are provided in one instance to permit accommodation of differing contract situations.

R33-5-402. Mandatory Construction Contract Clauses.

The following construction contract clauses shall be included in all construction contracts: R33-5-420 Changes Clause; R33-5-440 Suspension of Work Clause; R33-5-460 Price Adjustment Clause; R33-5-470 Claims Based on a Procurement Officer's Actions or Omissions Clause; R33-5-480 Default Delay - Time Extension Clause; R33-5-495 Termination for Convenience Clause; R33-5-497 Remedies Clause.

R33-5-403. Optional Construction Contract Clauses.

The following construction contract clauses may optionally be used in appropriate contracting situations: R33-5-430 Variations in Estimated Quantities Clause; R33-5-450 Differing Site Conditions Clause; R33-5-490 Liquidated Damages Clause.

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R33-5-410. Construction Contract Clauses: Revisions to Contract Clauses.

The clauses set forth in this rule may be varied for use in a particular contract when, pursuant to the provisions of Section 63-56-40 (Contract Clauses) of the Utah Procurement Code, the Chief Procurement Officer or the head of a Purchasing Agency makes a written determination describing the circumstances justifying the variation or variations.

Any material variation from these clauses shall be described in the solicitation documents in substantially the following form:

"Clause No. ......, entitled ...., is not a part of the general terms and conditions of this contract, and has been replaced by Special Clause No. ......, entitled .... Your attention is specifically directed to this clause."

R33-5-420. Construction Contract Clauses: Changes Clause.

"CHANGES

(1) Change Order. The Procurement Officer, at any time, and without notice to the sureties, in a signed writing designated or indicated to be a change order, may order:

(a) changes in the work within the scope of the contract; and

(b) changes in the time for performance of the contract that do not alter the scope of the contract.

(2) Adjustment of Price or Time for Performance. If any such change order increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

Failure of the parties to agree to an adjustment shall not excuse a contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payments or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Written Certification. The contractor shall not perform any change order which increases the contract amount unless it bears, or the contractor has separately received, a written certification, signed by the fiscal officer of the entity responsible for funding the project or the contract or other official responsible for monitoring and reporting upon the status of the costs of the total project or contract budget that funds are available therefor; and, if acting in good faith, the contractor may rely upon the validity of such certification.

(4) Time Period for Claim. Within 30 days after receipt of a written change order under Paragraph (1) (Change Order) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment.

(5) Claim Barred after Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

(6) Claims Not Barred. In the absence of such a change order, nothing in this clause shall restrict the contractor's right to pursue a claim arising under the contract, if pursued in accordance

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with the clause entitled 'Claims Based on a Procurement Officer's Actions or Omissions Clause' or for breach of contract."

R33-5-430. Construction Contract Clauses: Variations in Estimated Quantities Clause.

The following clause shall be inserted only in those construction contracts which contain estimated quantity items:

"VARIATIONS IN ESTIMATED QUANTITIES

(1) Variations Requiring Adjustments. Where the quantity of a pay item in this contract is an estimated quantity and where the actual quantity of such pay item varies more than 15% above or below the estimated quantity stated in this contract, an adjustment in the contract price shall be made upon demand of either party. The adjustment shall be based upon any increase or decrease in costs due solely to the variation above 15% or below 85% of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Procurement Officer shall, upon receipt of a timely written request for an extension of time, prior to the date of final settlement of the contract, ascertain the facts and make such adjustment for extending the completion date as in the judgment of the Procurement Officer the findings justify.

(2) Adjustments of Price. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract."

R33-5-440. Construction Contract Clauses: Suspension of Work Clause.

"SUSPENSION OF WORK

(1) Suspension for Convenience. The Procurement Officer may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

(2) Adjustment of Cost. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Procurement Officer in the administration of this contract, or by the failure of the Procurement Officer to act within the time specified in this contract (or if no time is specified, within reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent:

(a) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor; or

(b) for which an adjustment is provided for or excluded under any other provision of this contract.

(3) Time Restriction on Claim. No claim under this clause shall be allowed:

(a) for any costs incurred more than 20 days before the contractor shall have notified the Procurement Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(b) unless the claim is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

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(4) Adjustments of Price. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract."

R33-5-450. Construction Contract Clauses: Differing Site Conditions Clause.

Set forth below are alternative differing site conditions clauses to be used as appropriate.

(ALTERNATIVE A)

"DIFFERING SITE CONDITIONS: PRICE ADJUSTMENTS

(1) Notice. The contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer of:

(a) subsurface or latent physical conditions at the site differing materially from those indicated in this contract; or

(b) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.

(2) Adjustments of Price or Time for Performance. After receipt of such notice, the Procurement Officer shall promptly investigate the site, and if it is found that such conditions do materially so differ and cause an increase in the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract.

(3) Timeliness of Claim. No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in this clause; provided, however, that the time prescribed therefor may be extended by the Procurement Officer in writing.

(4) No Claim After Final Payment. No claim by the contractor for an adjustment thereunder shall be allowed if asserted after final payment under this contract.

(5) Knowledge. Nothing contained in this clause shall be grounds for an adjustment in compensation if the contractor had actual knowledge of the existence of such conditions prior to the submission of bids."

(END OF ALTERNATIVE A)

(ALTERNATIVE B)

"SITE CONDITIONS CONTRACTOR'S RESPONSIBILITY

The contractor accepts the conditions at the construction site as they eventually may be found to exist and warrants and represents that the contract can and will be performed under such conditions, and that all materials, equipment, labor, and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at the contractor's own cost and expense, anything in this contract to the contrary notwithstanding."

(END OF ALTERNATIVE B)

R33-5-460. Construction Contract Clauses: Price Adjustment Clause.

"PRICE ADJUSTMENT

(1) Price Adjustment Methods. Any adjustment in contract price pursuant to clauses in this

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contract shall be made in one or more of the following ways:

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or

(e) in the absence of agreement between the parties, by a unilateral determination by the Procurement Officer of costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Procurement Officer in accordance with generally accepted accounting principles and applicable sections of the rules promulgated under Section 63-56-28 (Cost Principles) and subject to the provisions of Part H (Legal and Contractual Remedies) of the Utah Procurement Code.

(2) Submission of Cost or Pricing Data. The contractor shall submit cost or pricing data for any price adjustments subject to the provisions of Section 63-56-28 (Cost Principles) of the Utah Procurement Code."

R33-5-470. Construction Contract Clauses: Claims Based on a Procurement Officer's Actions or Omissions Clause.

"CLAIMS BASED ON A PROCUREMENT OFFICER'S
ACTIONS OR OMISSIONS

(1) Notice of Claim. If any action or omission on the part of a Procurement Officer or designee of such officer, requiring performance changes within the scope of the contract constitutes the basis for a claim by the contractor for additional compensation, damages, or an extension of time for completion, the contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, the contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(a) the contractor shall have given written notice to the Procurement Officer or designee of such officer:

(i) prior to the commencement of the work involved, if at that time the contractor knows of the occurrence of such action or omission;

(ii) within 30 days after the contractor knows of the occurrence of such action or omission, if the contractor did not have such knowledge prior to the commencement of the work; or

(iii) within such further time as may be allowed by the Procurement Officer in writing.

This notice shall state that the contractor regards the act or omission as a reason which may entitle the contractor to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer;

(b) the notice required by Subparagraph (a) of this Paragraph describes as clearly as practicable at the time the reasons why the contractor believes that additional compensation, damages, or an extension of time may be remedies to which the contractor is entitled; and

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(c) the contractor maintains and, upon request, makes available to the Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

(2) Limitation of Clause. Nothing herein contained, however, shall excuse the contractor from compliance with any rules of law precluding any State officers and any contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

(3) Adjustments of Price. Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract."

R33-5-480. Construction Contract Clauses: Default-Delay-Time Extensions Clause.

"TERMINATION FOR DEFAULT FOR NONPERFORMANCE OR DELAY DAMAGES FOR DELAY-TIME EXTENSIONS

(1) Default. If the contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will assure its completion within the time specified in this contract, or any extension thereof, fails to complete said work within such time, or commits any other substantial breach of this contract, and further fails within (14) days after receipt of written notice from the Procurement Officer to commence and continue correction of such refusal or failure with diligence and promptness, the Procurement Officer may, by written notice to the contractor, declare the contractor in breach and terminate the contractor's right to proceed with the work or such part of the work as to which there has been delay. In such event the State may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of, and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the contractor's right to proceed with the work is terminated, the contractor and the contractor's sureties shall be liable for any damage to the State resulting from the contractor's refusal or failure to complete the work within the specified time.

(2) Liquidated Damages Upon Termination. If fixed and agreed liquidated damages are provided in the contract, and if the State so terminates the contractor's right to proceed, the resulting damage will consist of such liquidated damages for such reasonable time as may be required for final completion of the work.

(3) Liquidated Damages in Absence of Termination. If fixed and agreed liquidated damages are provided in the contract, and if the State does not terminate the contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(4) Time Extension. The contractor's right to proceed shall not be so terminated nor the contractor charged with resulting damage if:

(a) the delay in the completion of the work arises from causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in either a sovereign or contractual capacity; acts of another contractor in the performance of a contract with the State; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; unusually severe weather; delays of subcontractors due to causes similar to those set forth above; or shortage of materials; provided, however, that no extension of time will be granted for a delay

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caused by a shortage of materials, unless the contractor furnishes to the Procurement Officer proof that the contractor has diligently made every effort to obtain such materials from all known sources within reasonable reach of the work, and further proof that the inability to obtain such materials when originally planned did in fact cause a delay in final completion of the entire work which could not be compensated for by revising the sequence of the contractor's operations; and

(b) the contractor, within ten days from the beginning of any such delay (unless the Procurement Officer grants a further period of time before the date of final payment under the contract), notifies the Procurement Officer in writing of the causes of delay. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the judgment of the Procurement Officer, the findings of fact justify such an extension.

(5) Erroneous Termination for Default. If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly.

(6) Additional Rights and Remedies. The rights and remedies of the (State) provided in this clause are in addition to any other rights and remedies provided by law or under this contract."

R33-5-490. Construction Contract Clauses: Liquidated Damages Clause.

The following clause may be used in construction contracts when it is difficult to determine with reasonable accuracy damage to the State due to delays caused by late contractor performance or nonperformance.

"LIQUIDATED DAMAGES

When the contractor fails to complete the work or any portion of the work within the time or times fixed in the contract or any extension thereof, the contractor shall pay to the State ($) per calendar day of delay pursuant to the clause of this contract entitled, 'Termination for Default for Nonperformance or Delay-Damages for Delay-Time Extensions.'"

R33-5-495. Construction Contract Clauses: Termination for Convenience Clause.

"TERMINATION FOR CONVENIENCE

(1) Termination. The Procurement Officer may, when the interests of this State so require, terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and

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subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor shall still complete the work not terminated by the notice of termination and may incur obligations as necessary to do so.

(3) Right to Construction and Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer:

(a) any completed construction; and

(b) such partially completed construction, supplies, materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "construction material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract.

The contractor shall protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such construction, supplies, and construction materials in accordance with the standards of Uniform Commercial Code Section 2-706. (U.C.C. SS2-706 is quoted in the Editorial Note at the end of this Section.) This in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation.

(a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data, submitted to the extent required by Section 63-56-28 (Cost or Pricing Data) of the Utah Procurement Code, bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement provided the contractor has filed a termination claim supported by cost or pricing data submitted as required by Section 63-56-40 (Cost or Pricing Data) of the Utah Procurement Code and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of construction, supplies, and construction materials under Paragraph (3) of this clause, and the contract price of the work not terminated.

(c) Absent complete agreement under Subparagraph (b) of this paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments under Subparagraph (b) shall not duplicate payments under this paragraph:

(i) with respect to all contract work performed prior to the effective date of the notice of termination, the total (without duplication of any items) of:

(A) the cost of such work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for completed portions of such work; provided, however, that if it appears that the contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

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(B) costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph (2) of this clause. These costs shall not include costs paid in accordance with subparagraph (c)(i)(A) of this paragraph;

(C) the reasonable settlement costs of the contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract.

The total sum to be paid the contractor under this paragraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of any sales of construction, supplies, and construction materials under paragraph (3) of this clause, and the contract price of work not terminated.

(d) Cost claimed, agreed to, or established under subparagraphs (b) and (c) of this paragraph shall be in accordance with R33-3-8."

R33-5-497. Construction Contract Clauses: Remedies Clause.

"REMEDIES

Any dispute arising under or out of this contract is subject to the provisions of Part H (Legal and Contractual Remedies) of the Utah Procurement Code."

R33-5-510. Application.

The provisions of this section apply to every procurement of services within the scope of the practice of architecture as defined by Section 58-3-2, or professional engineering as defined in Section 58-22-2, except as authorized by Section R33-3-4 and Section R33-3-5.

R33-5-520. Policy.

It is the policy of this State to:

(a) give public notice of all requirements for architect-engineer services except as noted in Sections R33-5-510 and R33-5-530 and

(b) negotiate contracts for these services on the basis of demonstrated competence and qualification for the type of service required, and at fair and reasonable prices.

R33-5-525. Annual Statement of Qualifications and Performance Data.

The Chief Procurement Officer, the head of a Purchasing Agency, or a designee of either officer shall request firms engaged in providing architect-engineer services to annually submit a statement of qualifications and performance data which should include the following:

(a) the name of the firm and the location of all of its offices, specifically indicating the principal place of business,

(b) the age of the firm and its average number of employees over the past five years,

(c) the education, training, and qualifications of members of the firm and key employees,

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(d) the experience of the firm reflecting technical capabilities and project experience,

(e) the names of five clients who may be contacted, including at least two for whom services were rendered in the last year,

(f) any other pertinent information regarding qualifications and performance data requested by the Procurement Officer.

A standard form or format may be developed for these statements of qualifications and performance data. Firms may amend statements of qualifications and performance data at any time by filing a new statement.

R33-5-527. Billing Rate Survey.

The Consulting Engineers Council of Utah and the local chapter of the American Institute of Architects will provide the results of an annual survey on billing rates within their respective disciplines to the chief procurement officer prior to April 1 each year. This information will then be made available to all public procurement units.

R33-5-530. Small Purchases of Architect-Engineer Services.

When the procurement of Architect-Engineer Services is estimated to be less than $20,000, the procurement officer may select the provider directly from either the list of firms who have submitted annual statements of qualifications and performance data, or from other qualified firms if necessary. If the procurement is estimated to exceed $20,000 then the selection method prescribed by the following sections apply.

R33-5-540. Architect-Engineer Selection Committee.

The Chief Procurement Officer, or designee, shall designate members of the Architect-Engineer Selection Committee. The selection committee must consist of at least three members, where possible at least one of which is well qualified in the professions of architecture or engineering, as appropriate.

The Chief Procurement Officer, or designee, shall designate one member of the committee as chair and to act as the Procurement Officer to coordinate the negotiations of a contract with the most qualified firm in accordance with Section 63-56-44 of the Utah Procurement Code.

R33-5-550. Public Notice.

Public notice for architect-engineer services shall be given by the Procurement Officer as provided in R33-3-104. The notice shall be published sufficiently in advance of when responses must be received in order that firms have an adequate opportunity to respond to the solicitation, but not less than the time required by R33-3-102. The notice shall contain a brief statement of the services required which adequately describes the project, the closing date for submissions and how specific information on the project may be obtained.

R33-5-560. Request for Statements of Interest.

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A request for statements of interest (SOI) shall be prepared which describes the state's requirements and sets forth the evaluation criteria. It shall be distributed upon request and payment of a fee.

The request for statements of interest (SOI) shall include notice of any conference to be held and the criteria to be used in evaluating the statements of interest, qualifications and performance data and selecting firms, including:

(a) competence to perform the services as reflected by technical training and education, general experience, experience in providing the required services and the qualifications and competence of persons who would be assigned to perform the services.

(b) ability to perform the services as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously, and

(c) past performance as reflected by the evaluations of private persons and officials of other governmental entities that have retained the services of the firm with respect to factors such as control of costs, quality of work, and an ability to meet deadlines.

R33-5-570. Definition of Scope of Work.

Prior to initiating a request for SOI for architect-engineer services the using agency shall define the scope of the services. The scope definition shall be sufficient to define the work expected, as detailed as possible and the scope definition shall be the basis for the negotiation process. However the scope may be modified if necessary during final negotiations.

R33-5-580. Evaluation of Statements of Interest, Qualifications and Performance Data.

The selection committee shall evaluate:

(a) annual statement of qualifications and performance data submitted under Section R33-5-525;

(b) statements that may be submitted in response to the request for SOI for architect-engineer services, including proposals for joint ventures; and

(c) supplemental statements of qualifications and performance data, if their submission was required.

All statements and supplemental statements of qualifications and performance data shall be evaluated in light of the criteria set forth in the request for SOI for architect-engineering services.

R33-5-590. Selection of Firms for Discussions.

The selection committee shall select for discussions no fewer than three firms evaluated as being professionally and technically qualified unless fewer than three firms responded to the request for SOI. The Procurement Officer shall notify each firm in writing of the date, time, and place of discussions, and, if necessary, shall provide each firm with additional information on the project and the services required. This discussion phase may be waived if the evaluation of the statements of interest, qualifications and performance data indicate that one firm is clearly most qualified and if the scope and nature of the services are clearly defined.

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R33-5-600. Discussions.

Following evaluation of the statements of interest, qualifications and performance data, the selection committee shall hold discussions with the firms selected pursuant to section R33-45-590 regarding the proposed contract. The purposes of these discussions shall be to:

(a) determine each firm's general capabilities and qualifications for performing the contract; and

(b) explore the scope and nature of the required services and the relative utility of alternative methods of approach.

R33-5-610. Selection of the Most Qualified Firms.

After discussions, the selection committee shall reevaluate and select, in order of preference, the firms which it deems to be the most highly qualified to provide the required services. The selection committee shall document the selection process indicating how the evaluation criteria were applied to determine the ranking of the most highly qualified firms.

R33-5-620. Negotiation and Award of Contract.

The Procurement Officer shall negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable to the State. Contract negotiations shall be directed toward:

(a) making certain that the firm has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

(b) determining that the firm will make available the necessary personnel and facilities to perform the services within the required time, and

(c) agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.

R33-5-630. Failure to Negotiate Contract with the Most Qualified Firm.

(a) If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon with the most qualified firm, the Procurement Officer shall advise the firm in writing of the termination of negotiations.

(b) Upon failure to negotiate a contract with the most qualified firm, the Procurement Officer shall enter into negotiations with the next most qualified firm. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon, then the contract shall be awarded to that firm. If negotiations again fail, negotiations shall be terminated as provided in R33-5-630(a) of this section and commenced with the next most qualified firm.

R33-5-640. Notice of Award.

Written notice of the award shall be sent to the firm with whom the contract is successfully negotiated. Each firm with whom discussions were held shall be notified of the award. Notice of

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the award shall be made available to the public.

R33-5-650. Failure to Negotiate Contract with Firms Initially Selected as Most Qualified.

Should the Procurement Officer be unable to negotiate a contract with any of the firms initially selected as the most highly qualified firms. additional firms shall be selected in preferential order based on their respective qualifications, and negotiations shall continue in accordance with section R33-5-630 until an agreement is reached and the contract awarded.

References: 63-56-1 et seq.

History: 11829, AMD, 07/25/91; 11830, NEW, 07/25/91; 16036, NSC, 10/01/94; 16736, AMD, 05/30/95; 16899, AMD, 07/30/95; 17386, AMD, 01/25/97.

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g.

Section 63-56-38, Utah Code Annotated—Bonds Necessary when Contract is Awarded Waiver—Action—Attorney's Fees

63-56-38. Bonds necessary when contract is awarded - Waiver - Action - Attorneys' fees.

(1) When a construction contract is awarded under this chapter, the contractor to whom the contract is awarded shall deliver the following bonds or security to the state, which shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the state that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state; and

(b) a payment bond satisfactory to the state that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

(2) Rules may provide for waiver of the requirement of a bid, performance, or payment bond for circumstances in which the state considers any or all of the bonds to be unnecessary to protect the state.

(3) A person shall have a right of action on a payment bond under this section for any unpaid amount due him if:

(a) he has furnished labor, service, equipment, or material for the work provided for in the contract for which the payment bond is furnished under this section; and

(b) he has not been paid in full within 90 days after the last date on which he performed the labor or service or supplied the equipment or material for which the claim is made.

(4) An action upon a payment bond shall be brought in a court of competent jurisdiction in any county where the construction contract was to be performed and not elsewhere. The action is barred if not commenced within one year after the last day on which the claimant performed the labor or service or supplied the equipment or material on which the claim is based. The obligee named in the bond need not be joined as a party to the action.

(5) In any suit upon a payment bond, the court shall award reasonable attorneys' fees to the prevailing party, which fees shall be taxed as costs in the action.

History: C. 1953, 63-56-38, enacted by L. 1980, ch. 75, § 1; 1985, ch. 202, § 1; 1987, ch. 218, § 10; 1989, ch. 7, § 2; 1989, ch. 271, § 7; 1993, ch. 232, § 11.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R916-1.

Amendment Notes. - The 1993 amendment, effective May 3, 1993, substituted "any or all" for "either or both" in Subsection (2).

Applicability. - Laws 1987, ch. 218, § 12 provides that ch. 218 applies only to contracts executed on or after April 27, 1987, and to persons and bonds in connection with such contracts.

NOTES TO DECISIONS

Analysis

Applicability to school district.
Claim against bond.
- Estoppel.
- Scope.
Materialman.
Materials supplied.
Rental.
Work performed without contract.

Applicability to school district.

For the purposes of this section, "state" means "local public procurement unit," which includes school districts. CECO Corp. v. Concrete Specialists, Inc., 772 P.2d 967 (Utah 1989).

Claim against bond.

- Estoppel.

Sub-subcontractor was not estopped from pursuing a bond claim although it had notified the general contractor that a subcontractor owed it money and that it would continue to look to the subcontractor for payment, as was the industry custom. CECO Corp. v. Concrete Specialists, Inc., 772 P.2d 967 (Utah 1989).

- Scope.

When the legislature repealed the Little Miller Act in 1980 and replaced it with the Utah Procurement Code, it chose language that seems to limit public bond coverage to contractors, their subcontractors, and the next tier of suppliers. The legislative intent was thus to exclude remote suppliers. Western Coating, Inc. v. Gibbons & Reed Co., 788 P.2d 503 (Utah 1990).

Materialman.

Inasmuch as a materialman is precluded under § 38-1-1 from placing a lien on public property, the defense which may be asserted against a lien claim under former § 58A-1a-12 does not apply to a claim of a materialman furnishing materials or labor to a bonded public construction project. Thus, the materialman who has not been paid in full within the time period required by this section may proceed directly against the bonding company without encountering such a defense against its claim. Geneva Pipe Co. v. S & H Ins. Co., 714 P.2d 648 (Utah 1986).

Materials supplied.

In action by materialman on payment bond, materialman did not have the burden to prove that the materials furnished were actually delivered to the job site or that they were actually incorporated into the structure, but only that the materials were furnished in connection with the particular project. City Elec. v. Industrial Indem. Co., 683 P.2d 1053 (Utah 1984).

Rental.

In three consolidated cases raising the issue of whether rental charges for equipment used on a public construction project were within the scope of coverage of this section at the time the charges were incurred in 1985, the term "labor and material" as used in this section did not include rent for equipment in 1985, so that rent for equipment fell outside the scope of the statute. Johnson v. Gallegos Constr. Co., 785 P.2d 1109 (Utah 1990).

Work performed without contract.

Where construction company proceeded to demolish race track and install a soccer field for Utah Golden Spikers and state of Utah without an executed agreement and without compliance with § 64-1-4, there was no contract with the state of Utah by which it was obliged to require the Golden Spikers to furnish performance and payment bonds. Breitling Bros. Constr. v. Utah Golden Spikers, Inc., 597 P.2d 869 (Utah 1979).

COLLATERAL REFERENCES

A.L.R. - What constitutes "public work" within statute relating to contractor's bond, 48 A.L.R.4th 1170.

63-56-38.1. Preliminary notice requirement.

Except subcontractors who are in privity of contract with a payment bond principal or except for persons performing labor for wages, any person furnishing labor, service, equipment, or material for which a payment bond claim may be made under this chapter shall provide preliminary notice to the payment bond principal as prescribed by Section 38-1-27. Any person who fails to provide this preliminary notice may not make a payment bond claim under this chapter. The preliminary notice must be provided prior to commencement of any action on the payment bond.

History: C. 1953, 63-56-38.1, enacted by L. 1989, ch. 271, § 8.

63-56-39. Form of bonds - Effect of certified copy.

The form of the bonds required by this part shall be established by rules and regulations. Any person may obtain from the state a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

History: C. 1953, 63-56-39, enacted by L. 1980, ch. 75, § 1.

PART F
CONTRACT CLAUSES

63-56-40. Required contract clauses - Computation of price adjustments - Use of rules and regulations.

(1) Rules and regulations shall require for state construction contracts and may permit or

require for state contracts for supplies and services the inclusion of clauses providing for adjustments in prices, time of performance, or other appropriate contract provisions, and covering the following subjects:

(a) the unilateral right of the state to order in writing changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work;

(b) variations occurring between estimated quantities of work in a contract and actual quantities;

(c) suspension of work ordered by the state; and

(d) site conditions differing from those indicated in the construction contract, or ordinarily encountered, except that differing site conditions clauses required by the rules and regulations need not be included in a construction contract when the contract is negotiated, when the contractor provides the site or design, or when the parties have otherwise agreed with respect to the risk of differing site conditions.

(2) Adjustments in price pursuant to clauses promulgated under Subsection (1) shall be computed in one or more of the following ways:

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the contract or subsequently agreed upon;

(c) by the costs attributable to the events or situations under the clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(d) in any other manner as the contracting parties may mutually agree; or

(e) in the absence of agreement by the parties, by a unilateral determination by the state of the costs attributable to the events or situations under the clauses with adjustment of profit or fee, all as computed by the state in accordance with applicable sections of the rules and regulations issued under Subsection 63-56-28(1) and subject to the provisions of Part H of this chapter.

(3) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 63-56-28.

(4) Rules and regulations shall require for state construction contracts and may permit or require for state contracts for supplies and services the inclusion of clauses providing for appropriate remedies and covering at least the following subjects:

(a) liquidated damages as appropriate;

(b) specified excuses for delay or nonperformance;

(c) termination of the contract for default; and

(d) termination of the contract in whole or in part for the convenience of the state.

(5) The contract clauses promulgated under this section shall be set forth in rules and regulations. However, the chief procurement officer or the head of a purchasing agency may modify the clauses for inclusion in any particular contract. Any variations shall be supported by a written determination that describes the circumstances justifying the variations, and notice of any material variation shall be included in the invitation for bids or request for proposals.

History: C. 1953, 63-56-40, enacted by L. 1980, ch. 75, § 1.

COLLATERAL REFERENCES

A.L.R. - Effect of stipulation, in public building or construction contract, that alterations or extras must be ordered in writing, 1 A.L.R.3d 1273.

Construction and operation of "equal opportunities clause" requiring pledge against racial discrimination in hiring under construction contract, 44 A.L.R.3d 1283.

Validity and construction of "no damage" clause with respect to delay in building or construction contract, 74 A.L.R.3d 187.

Construction contract provision excusing delay caused by "severe weather,", 85 A.L.R.3d 1085.

Liability of contractor who abandons building project before completion for liquidated damages for delay, 15 A.L.R.5th 376.

63-56-41. Certification of change order.

Under a construction contract, any change order which increases the contract amount shall be subject to prior written certification that the change order is within the determined project or contract budget. The certification shall be made by the fiscal officer of the entity responsible for funding the project or the contract or other official responsible for monitoring and reporting upon the status of the costs of the total project or contract budget. If the certification discloses a resulting increase in the total project or contract budget, the procurement officer shall not execute or make the change order unless sufficient funds are available or the scope of the project or contract is adjusted to permit the degree of completion feasible within the total project or contract budget as it existed prior to the change order under consideration. However, with respect to the validity, as to the contractor, of any executed change order upon which the contractor has reasonably relied, it shall be presumed that there has been compliance with the provisions of this section.

History: C. 1953, 63-56-41, enacted by L. 1980, ch. 75, § 1.

PART G
ARCHITECT-ENGINEER SERVICES

63-56-42. Policy regarding architect-engineer services.

It is the policy of this state to publicly announce all requirements for architect-engineer services and to negotiate contracts for architect-engineer services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices. Architect-engineer services shall be procured as provided in this part except as authorized by Sections 63-56-22 through 63-56-24. This part does not affect the authority of, and does not apply to procedures undertaken by, a public procurement unit to obtain the services of architects or engineers in the capacity of employees of such unit.

History: C. 1953, 63-56-42, enacted by L. 1980, ch. 75, § 1.

63-56-43. Selection committee for architect-engineer services.

In the procurement of architect-engineer services, the chief procurement officer or the head of a purchasing agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The Building Board shall be the selection committee for architect-engineer services contracts under its authority. Selection committees for architect-engineer services contracts not under the authority of the Building Board shall be established in accordance with rules and regulations promulgated by the policy board. Selection committees shall evaluate current statements of qualifications and performance data on file with the state, together with those that may be submitted by other firms in response to the announcement of the proposed contract. Selection committees shall consider no less than three firms and then shall select therefrom, based upon criteria established and published by the selection committees, no less than three of the firms deemed to be the most highly qualified to provide the services required.

History: C. 1953, 63-56-43, enacted by L. 1980, ch. 75, § 1.

63-56-43.1. Selection as part of design-build or lease.

Notwithstanding any other provision of this chapter, architect-engineer services may be procured under Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, as part of the services obtained in a design-build contract or as part of the services obtained in a lease contract for real property, provided that the qualifications of those providing the architect-engineer services are part of the consideration in the selection process.

History: C. 1953, 63-56-43.1, enacted by L. 1997, ch. 89, § 3.

Effective Dates. - Laws 1997, ch. 89 became effective on May 5, 1997, pursuant to Utah Const., Art. VI, Sec. 25.

63-56-44. Determination of compensation for architect-engineer services.

The procurement officer shall award a contract to a qualified firm at compensation which the procurement officer determines in writing to be fair and reasonable to the state. In making this decision, the procurement officer shall take into account the estimated value, the scope, and complexity, and the professional nature of the services to be rendered. Should the procurement officer be unable to agree to a satisfactory contract with the firm first selected, at a price the procurement officer determines to be fair and reasonable to the state, discussions with that firm shall be formally terminated. The procurement officer shall then undertake discussions with a second qualified firm. Failing accord with the second firm, the procurement officer shall formally terminate discussions. The procurement officer shall then undertake discussions with a third qualified firm. Should the procurement officer be unable to award a contract at a fair and reasonable price with any of the selected firms, the procurement officer shall select additional firms, and the procurement officer shall continue discussions in accordance with this part until an agreement is reached.

History: C. 1953, 63-56-44, enacted by L. 1980, ch. 75, § 1.

PART H
LEGAL AND CONTRACTUAL REMEDIES

63-56-45. Protest to chief procurement officer - Time - Authority to resolve protest.

(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or the head of a purchasing agency. A protest with respect to an invitation for bids or a request for proposals shall be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to the protest prior to bid opening or the closing date for proposals. The protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto.

(2) The chief procurement officer, the head of a purchasing agency, or a designee of either officer shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

History: C. 1953, 63-56-45, enacted by L. 1980, ch. 75, § 1.

COLLATERAL REFERENCES

C.J.S. - 81A C.J.S. States § 172 et seq.

A.L.R. - Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute, 33 A.L.R.3d 397.

Liability of municipality on quasi contract for value of property or work furnished without compliance with bidding requirements, 33 A.L.R.3d 1164.

Liability of builder or subcontractor for insufficiency of building resulting from latent defects in materials used, 61 A.L.R.3d 792.

Standing of disappointed bidder on public contract to seek damages under 42 USCS § 1983 for public authorities' alleged violation of bidding procedures, 86 A.L.R. Fed. 904.

63-56-46. Effect of timely protest.

In the event of a timely protest under Subsection 63-56-45(1), 63-56-54(1), or 63-56-59(1), the state shall not proceed further with the solicitation or with the award of the contract until all administrative and judicial remedies have been exhausted or until the chief procurement officer, after consultation with the head of the using agency or the head of a purchasing agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

History: C. 1953, 63-56-46, enacted by L. 1980, ch. 75, § 1; 1987, ch. 92, § 126.

63-56-47. Costs to or against protestor.

(1) When a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, the protestor, in addition to any other relief, shall be entitled, as a claim against the state, to the reasonable costs incurred in connection with the solicitation, including bid preparation and appeal costs.

(2) When a protest is not sustained by the Procurement Appeals Board, the protestor shall reimburse the Division of Purchasing and General Services for the per diem and expenses paid by the division to witnesses or appeals board members and any additional expenses incurred by the state agency staff who have provided materials and administrative services to the board for that case.

History: C. 1953, 63-56-47, enacted by L. 1980, ch. 75, § 1; 1983, ch. 295, § 1; 1997, ch. 252, § 6.

Amendment Notes. - The 1997 amendment, effective March 17, 1997, added "and General Services" after "Division of Purchasing" in Subsection (2).

63-56-48. Debarment from consideration for award of contracts - Causes for debarment.

(1) After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the chief procurement officer or the head of a purchasing agency, after consultation with the using agency and the attorney general, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period exceeding three years. The same officer, after consultation with the using agency and the attorney general, shall have authority to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three months unless an indictment has been issued for an offense which would be a cause for debarment under Subsection (2) of this section, in which case the suspension shall, at the request of the attorney general, remain in effect until after the trial of the suspended person.

(2) The causes for debarment include the following:

(a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;

(b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor;

(c) conviction under state or federal antitrust statutes;

(d) failure without good cause to perform in accordance with the terms of the contract; or

(e) any other cause the chief procurement officer, or the head of a purchasing agency determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in rules and regulations.

History: C. 1953, 63-56-48, enacted by L. 1980, ch. 75, § 1.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R23-4.

63-56-49. Authority to resolve controversy between state and contractor.

The chief procurement officer, the head of a purchasing agency, or a designee of either officer is authorized, prior to commencement of an action in court concerning the controversy, to settle and resolve a controversy which arises between the state and a contractor under or by virtue of a contract between them. This includes, without limitation, controversies based upon breach of contract, mistakes, misrepresentation, or other cause for contract modification or rescission.

History: C. 1953, 63-56-49, enacted by L. 1980, ch. 75, § 1.

63-56-50. Decisions of chief procurement officer to be in writing - Effect of no writing.

(1) The chief procurement officer, the head of a purchasing agency, or the designee of either officer shall promptly issue a written decision regarding any protest, debarment or suspension, or contract controversy if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to judicial or administrative review as provided in this chapter.

(2) A decision shall be effective until stayed or reversed on appeal, except to the extent provided in Section 63-56-46. A copy of the decision under Subsection (1) shall be mailed or otherwise furnished immediately to the protestor, prospective contractor, or contractor. The decision shall be final and conclusive unless the protestor, prospective contractor, or contractor appeals administratively to the procurement appeals board in accordance with Subsection 63-56-54(2) or the protestor, prospective contractor, or contractor commences an action in court in accordance with Section 63-56-59.

(3) If the chief procurement officer, the head of a purchasing agency, or the designee of either officer does not issue the written decision regarding a contract controversy within 60 calendar days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

History: C. 1953, 63-56-50, enacted by L. 1980, ch. 75, § 1.

63-56-51. Creation of Procurement Appeals Board.

(1) (a) A Procurement Appeals Board is created in the executive branch. The Procurement Appeals Board shall be composed of a chair and one other member, to be appointed by the governor, and a third member to be designated by the two appointed members on a case-by-case basis.

(b) None of the members of the Procurement Appeals Board shall otherwise be full-time employees of the state.

(c) The appointed members of the Procurement Appeals Board shall have been members in good standing of the state bar for at least five years and shall be experienced in contract or commercial matters.

(d) The designated member shall possess the technical expertise and experience needed for the proper disposition of the factual issues presented by the case.

(2) (a) Except as required by Subsection (b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The designated member shall serve for the case on which designated until the final disposition of the case.

(d) Appointed members may be reappointed for succeeding terms and may continue to serve after the expiration of their terms until a successor takes office.

(e) Qualified persons may be redesignated as members.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

History: C. 1953, 63-56-51, enacted by L. 1980, ch. 75, § 1; 1996, ch. 243, § 150.

Amendment Notes. - The 1996 amendment, effective April 29, 1996, designated the first two paragraphs as Subsections (1) and (2), revising provisions relating to terms of members and making stylistic changes; deleted the former third paragraph, relating to the provision of services by the Department of Finance and members' per diem and expenses; and added Subsections (3) and (4).

63-56-52. Rules of procedure to be adopted.

The Procurement Appeals Board shall adopt rules of procedure which, to the fullest extent possible, will provide for the expeditious resolution of controversies, including procedures to encourage agreements between the parties to a controversy prior to a hearing. The board may adopt small claims procedures for the resolution of controversies involving claims of less than $15,000.

History: C. 1953, 63-56-52, enacted by L. 1980, ch. 75, § 1.

63-56-53. Decisions to be in writing.

The Procurement Appeals Board shall issue a decision in writing or take other appropriate action of each appeal submitted. A copy of any decision shall be provided to all parties and the chief procurement officer or the head of a purchasing agency.

History: C. 1953, 63-56-53, enacted by L. 1980, ch. 75, § 1.

h.

Section 10-9 Utah Code Annotated—
The Municipal Land Use Development and Management Act

PART 1
GENERAL PROVISIONS

10-9-101. Short title.

This chapter shall be known as "The Municipal Land Use Development and Management Act."

History: C. 1953, 10-9-101, enacted by L. 1991, ch. 235, § 1.

Air Quality, Transportation, and Land-Use Task Force. - Laws 1996, ch. 215, creates the Air Quality, Transportation, and Land-Use Task Force to study and recommend a comprehensive policy and solutions to problems and conflicts regarding the interrelationship of air quality, transportation, and land-use issues, and appropriates $35,000 for compensation and expenses associated with the task force. The task force is to report its findings and recommendations to the Health and Environment, Transportation and Public Safety, and State and Local Affairs Interim Committees before December 31, 1996. Laws 1996, ch. 215 is repealed effective December 31, 1996.

Cross-References. - Airport zoning regulations, § 2-4-1 et seq.

Building and fire regulations, § 10-8-52.

Community redevelopment, § 17A-2-1101 et seq.

County zoning and planning, § 17-27-101 et seq.

Lumberyards and combustible materials, prohibition within fire limits, § 10-8-70.

Neighborhood development, § 17A-2-1201 et seq.

State planning coordinator, § 63-28-1 et seq.

COLLATERAL REFERENCES

Utah Law Review. - Housing in Salt Lake County - A Place to Live for the Poor?, 1972 Utah L. Rev. 193.

Utah Environmental Problems and Legislative Response, 1972 Utah L. Rev. 479, 1973 Utah L. Rev. 1.

Preserving Utah's Open Spaces, 1973 Utah L. Rev. 164.

Comment, *Melville v. Salt Lake County* - Technical Notice: A Judicial Lesson in Avoiding Inevitable Conflicts, 1975 Utah L. Rev. 520.

Development Fees: Standards to Determine Their Reasonableness, 1982 Utah L. Rev. 549.

The Availability of 42 U.S.C. § 1983 in Challenges of Land Use Planning Regulations: A Developer's Dream Come True?, 1982 Utah L. Rev. 571.

Financing Community Impacts: Local Planning Issues in Ski Resort Development, 1985 Utah L. Rev.

783.

Brigham Young Law Review. - Using Planned Development Ordinances to Downzone: *Sherman v. City of Colorado Springs Planning Commission*, 1985 B.Y.U. L. Rev. 359.

Am. Jur. 2d. - 83 Am. Jur. 2d Zoning and Planning § 10 et seq.

C.J.S. - 101A C.J.S. Zoning and Land Planning § 2 et seq.

10-9-102. Purpose.

To accomplish the purpose of this chapter, and in order to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the municipality and its present and future inhabitants and businesses, to protect the tax base, secure economy in governmental expenditures, foster the state's agricultural and other industries, protect both urban and nonurban development, and to protect property values, municipalities may enact all ordinances, resolutions, and rules that they consider necessary for the use and development of land within the municipality, including ordinances, resolutions, and rules governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, public facilities, vegetation, and trees and landscaping, unless those ordinances, resolutions, or rules are expressly prohibited by law.

History: C. 1953, 10-9-102, enacted by L. 1991, ch. 235, § 2; 1992, ch. 93, § 1.

NOTES TO DECISIONS

Stated reasons.

A city ordinance downzoning certain acreage from a commercial to residential classification was not unconstitutional, where the undisputed language of the ordinance and the reasons given for it supported the city's action. Smith Inv. Co. v. Sandy City, 958 P.2d 245 (Utah Ct. App. 1998).

10-9-103. Definitions - Notice.

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Chief executive officer" means:

(i) the mayor in municipalities operating under all forms of municipal government except the council-manager form; or

(ii) the city manager in municipalities operating under the council-manager form of municipal government.

(c) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(d) "County" means the unincorporated area of the county.

(e) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

(f) (i) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

(g) "Legislative body" means the city council or city commission.

(h) "Lot line adjustment" in a subdivision means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

(i) "Municipality" means a city or town.

(j) "Nonconforming structure" means a structure that:

(i) legally existed before its current zoning designation; and

(ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

(k) "Nonconforming use" means a use of land that:

(i) legally existed before its current zoning designation;

(ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(l) "Official map" means a map of proposed streets that has the legal effect of prohibiting development of the property until the municipality develops the proposed street.

(m) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(n) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(o) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(p) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes:

(A) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and

(B) except as provided in Subsection (1)(p)(iii), divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances; or

(C) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1)(p) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(q) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A municipality meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A municipal legislative body may enact an ordinance establishing stricter notice requirements than those required by this subsection.

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

History: C. 1953, 10-9-103, enacted by L. 1991, ch. 235, § 3; 1992, ch. 23, § 1; 1995, ch. 179, § 1; 1997, ch. 108, § 1; 1997, ch. 151, § 1; 1998, ch. 37, § 1; 1998, ch. 89, § 1.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, added Subsection (1)(i) and redesignated the following subsections accordingly.

The 1997 amendment by ch. 108, effective May 5, 1997, deleted definitions of "handicapped person" and "residential facility for handicapped persons," redesignating subsections accordingly, and made a stylistic change. For present provisions covering residences for persons with disabilities, see § 10-9-605.

The 1997 amendment by ch. 151, effective May 5, 1997, added Subsection (iii) to the definition of "subdivision."

The 1998 amendment by ch. 37, effective May 4, 1998, added "except as provided in Subsection (1)(p)(iii)" at the beginning of Subsection (1)(p)(ii)(B); and added Subsection (1)(p)(iii)(A), redesignating former Subsections (1)(p)(iii)(A) and (B) as (1)(p)(iii)(B) and (C).

The 1998 amendment by ch. 89, effective May 4, 1998, added Subsection (1)(p)(iv).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

COLLATERAL REFERENCES

A.L.R. - Validity and construction of zoning regulations relating to illuminated signs, 30 A.L.R.5th 549.

10-9-104. Stricter requirements.

(1) Except as provided in Subsection (2), municipalities may enact ordinances imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

(a) Section 10-9-106;
(b) Section 10-9-106.5;
(c) Part 5, Residential Facilities for Elderly Persons; and
(d) Part 6, Residential Facilities for Handicapped Persons.

History: C. 1953, 10-9-104, enacted by L. 1991, ch. 235, § 4; 1992, ch. 23, § 2; 1996, ch. 55, § 1.

Amendment Notes. - The 1996 amendment, effective April 29, 1996, added Subsection (2)(b) and redesignated former Subsections (2)(b) and (2)(c) as (2)(c) and (2)(d).

COLLATERAL REFERENCES

Am. Jur. 2d. - 83 Am. Jur. 2d Zoning and Planning § 12.

C.J.S. - 101A C.J.S. Zoning and Land Planning § 11.

A.L.R. - Validity and construction of zoning regulations relating to illuminated signs, 30 A.L.R.5th 549.

10-9-105. State and federal property.

Unless otherwise provided by law, nothing contained in Parts 4 and 8 of this chapter may be construed as giving the planning commission or the legislative body jurisdiction over properties owned by the state of Utah or the United States government.

History: C. 1953, 10-9-105, enacted by L. 1991, ch. 235, § 5; 1992, ch. 23, § 3.

NOTES TO DECISIONS

Applicability.

This section did not apply in an action by a cemetery association challenging a city zoning ordinance that designated as open space a cemetery owned by the association. Mount Olivet Cem. Ass'n v. Salt Lake City, 961 F. Supp. 1547 (D. Utah 1997).

10-9-106. Property owned by other government units - Effect of land use and development ordinances.

(1) (a) Each county, municipality, school district, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality only in a manner or for a purpose that conforms to that municipality's ordinances.

(b) In addition to any other remedies provided by law, when a municipality's land use and development ordinances are being violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) A school district is subject to a municipality's land use regulations under this chapter, except that a municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless neither the school district nor the state superintendent has provided for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent with the approval of the state building board and state fire marshal;

(e) require a school district to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address; or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

History: C. 1953, 10-9-106, enacted by L. 1991, ch. 235, § 6; 1992, ch. 23, § 4.

COLLATERAL REFERENCES

C.J.S. - 101A C.J.S. Zoning and Land Planning § 108.

A.L.R. - Applicability of zoning regulation to nongovernmental lessee of government-owned property, 84 A.L.R.3d 1187.

10-9-106.5. Manufactured homes.

(1) For purposes of this section, a manufactured home is the same as defined in Section 58-56-3, except that the manufactured home must be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations must be built in compliance with the applicable building code.

(2) A manufactured home may not be excluded from any zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local zoning, building code, and subdivision requirements, including any restrictive covenants, applicable to single family residence within that zone or area.

History: C. 1953, 10-9-106.5, enacted by L. 1996, ch. 55, § 2.

Effective Dates. - Laws 1996, ch. 55 became effective on April 29, 1996, pursuant to Utah Const., Art. VI, Sec. 25.

i.

Section 17-27-105 Utah Code Annotated— Property Owned by Other Governmental Units— Effect of Land Use and Development Ordinances

i.

Section 17-27-105 Utah Code Annotated— Property Owned by Other Governmental Units— Effect of Land Use and Development Ordinances

17-27-105. Property owned by other government units - Effect of land use and development ordinances.

(1) (a) Each county, municipality, school district, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within that county only in a manner or for a purpose that conforms to that county's ordinances.

(b) In addition to any other remedies provided by law, when a county's land use and development ordinances are being violated or about to be violated by another political subdivision, that county may institute injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) A school district is subject to a county's land use regulations under this chapter, except that a county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless neither the school district nor the state superintendent has provided for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent with the approval of the state building board and state fire marshal;

(e) require a school district to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address; or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

History: C. 1953, 17-27-105, enacted by L. 1991, ch. 235, § 60; 1992, ch. 23, § 27.

COLLATERAL REFERENCES

C.J.S. - 101 C.J.S. Zoning § 135.

A.L.R. - Mandamus to compel zoning officials to cancel permit granted in violation of zoning regulation, 68 A.L.R.3d 166.

Applicability of zoning regulation to nongovernmental lessee of government-owned property, 84 A.L.R.3d 1187.

Laches as defense in suit by governmental entity to enjoin zoning violation, 73 A.L.R.4th 870.

j.

Article X, Section 5 Utah Constitution— State School Fund and Uniform School Fund— Establishment and Use—Debt Guaranty

Sec. 5. [State School Fund and Uniform School Fund - Establishment and use - Debt guaranty.]

(1) There is established a permanent State School Fund which shall consist of revenue from the following sources:

(a) proceeds from the sales of all lands granted by the United States to this state for the support of the public elementary and secondary schools;

(b) 5% of the net proceeds from the sales of United States public lands lying within this state;

(c) all revenues derived from nonrenewable resources on state lands, other than sovereign lands and lands granted for other specific purposes;

(d) all revenues derived from the use of school trust lands;

(e) revenues appropriated by the Legislature; and

(f) other revenues and assets received by the fund under any other provision of law or by bequest or donation.

(2) The State School Fund principal shall be safely invested and held by the state in perpetuity. Only the interest received from investment of the State School Fund may be expended for the support of the public education system as defined in Article X, Section 2 of this constitution. The Legislature may make appropriations from school trust land revenues to provide funding necessary for the proper administration and management of those lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the school land trust. Unexpended balances remaining from the appropriation at the end of each fiscal year shall be deposited in the State School Fund. A portion of the interest earnings of the State School Fund, in an amount equal to the total balance in the State School Fund at the close of each calendar year multiplied by the annual rate of inflation for the preceding year, as determined by the state treasurer, shall be retained in the State School Fund and added to the principal. The State School Fund shall be guaranteed by the state against loss or diversion.

(3) There is established a Uniform School Fund which shall consist of revenue from the following sources:

(a) interest from the State School Fund remaining after deduction of the amount retained in the State School Fund to protect the fund against losses due to inflation;

(b) revenues appropriated by the Legislature; and

(c) other revenues received by the fund under any other provision of law or by donation.

(4) The Uniform School Fund shall be maintained and used for the support of the state's public education system as defined in Article X, Section 2 of this constitution and apportioned as

the Legislature shall provide.

(5) (a) The state may guarantee the debt of school districts created in accordance with Article XIV, Section 3, and may guarantee debt incurred to refund the school district debt. Any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payment of the state's obligation under any debt guaranty shall not be included as a debt of the state for purposes of the 1.5% limitation of Article XIV, Section 1.

(b) The Legislature may provide that reimbursement to the state shall be obtained from monies which otherwise would be used for the support of the educational programs of the school district which incurred the debt with respect to which a payment under the state's guaranty was made.

History: Const. 1896; L. 1909, H.J.R. 14; 1929, H.J.R. 3; 1937, H.J.R. 5; 1984 (2nd S.S.), H.J.R. 4; 1986 (2nd S.S.), S.J.R. 1; 1994, H.J.R. 15, § 1; 1996, S.J.R. 6, § 1; 1996, S.J.R. 17, § 1; 1996, H.J.R. 7, § 1.

Amendment Notes. - The 1994 amendment was proposed by Laws 1994, H.J.R. 15, § 1, approved by the voters on November 8, 1994, and took effect on January 1, 1995. The amendment rewrote the section to such an extent that a detailed description of the changes is impracticable.

Laws 1996, H.J.R. 7, § 1 proposed amending this section to make stylistic changes in Subsections (1)(d) and (1)(e) and add Subsection (1)(f).

Laws 1996, S.J.R. 17, § 1 proposed amending this section to substitute the language "education system as defined in Article X, Section 2 of this constitution" for "elementary and secondary schools" in Subsections (2) and (4).

Laws 1996, S.J.R. 6, § 2 proposed amending this section to add Subsection (5).

The three proposed amendments were combined into a single version by the Office of Legislative Research and General Counsel.

The proposed amendment was approved by the voters of the state at the 1996 general election and took effect on January 1, 1997.

Compiler's Notes. - The 1986 amendment renumbered the provisions of former Section 3 of this article and amended the provisions to read as set out above. The provisions of former Section 5 now appear as Section 7 of this article.

Cross-References. - Land grants to schools, Enabling Act, § 6 et seq.

Uniform School Fund, § 53A-16-101.

NOTES TO DECISIONS

Analysis

Adverse possession of school lands.
Exemption from taxation.

Mineral proceeds.
Use of land.

Adverse possession of school lands.

Land granted to state by the Enabling Act for support of common schools could not be acquired by defendants by adverse possession although state had sold land in controversy to plaintiff. Van Wagoner v. Whitmore, 58 Utah 418, 199 P. 670 (1921).

This provision was not impinged by the quieting of title in one claiming, by adverse possession, land which was granted to the state by the federal government for the use of an agricultural college, where the state had received the purchase price long before the claimant's entry and state denied interest in the land, even though purchaser and his successors had not demanded or received the patent. Minersville Land & Livestock Co. v. Staten, 7 Utah 2d 331, 325 P.2d 260 (1958).

Exemption from taxation.

Proceeds from sale of lands granted by federal government to the state of Utah for the support of the common schools are exempt from taxation. Duchesne County v. State Tax Comm'n, 104 Utah 365, 140 P.2d 335 (1943).

Mineral proceeds.

Mineral proceeds derived from state school lands may be deposited in the Uniform School Fund and are not required to be deposited in the State School Fund. Jensen v. Dinehart, 645 P.2d 32 (Utah 1982).

Use of land.

Under the terms of the Enabling Act and the Constitution, a school land trust is not only imposed on the disposition of proceeds from school trust lands, but also on the use of the land itself. National Parks & Conservation Ass'n v. Board of State Lands, 869 P.2d 909 (Utah 1993).

COLLATERAL REFERENCES

Utah Law Review. - Priorities of the Trustee in Administering Utah's School Trust Lands, 1994 Utah L. Rev. 414.

Am. Jur. 2d. - 68 Am. Jur. 2d Schools § 86.

C.J.S. - 78 C.J.S. Schools and School Districts §§ 16, 18.

k.

Article XVI, Section 4 Utah Constitution—Debt Limit

ARTICLE XIV
PUBLIC DEBT

Section
1. [Fixing the limit of the state indebtedness - Exceptions.]
2. [Debts for public defense.]
3. [Debts of counties, cities, towns, and school districts not to exceed revenue - Exception.]
4. [Limit of indebtedness of counties, cities, towns and school districts.]
5. [Borrowed money to be applied to authorized use.]
6. [State not to assume county, city, town or school district debts - Exception.]
7. [Existing indebtedness not impaired.]
8. [Special service districts.]

Section 1. [Fixing the limit of the state indebtedness - Exceptions.]

To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings, and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time, an amount equal to one and one-half per centum of the value of the taxable property of the State, as shown by the last assessment for State purposes, previous to the incurring of such indebtedness. But the State shall never contract any indebtedness, except as provided in Article XIV, Section 2, in excess of such amount, and all monies arising from loans herein authorized, shall be applied solely to the purposes for which they were obtained.

History: Const. 1896; L. 1909, S.J.R. 8; 1996, S.J.R. 6, § 4.

Amendment Notes. - Laws 1996, S.J.R. 6, § 4 proposed amending this section by substituting "except as provided in Article XIV, Section 2" for "except as in the next Section provided" in the second sentence. The proposed amendment was approved by the voters at the 1996 general election and took effect on January 1, 1997.

Cross-References. - Appropriations and tax limitation, § 59-17a-101 et seq.

NOTES TO DECISIONS

Analysis

Construction, scope, and operation of section.
Obligations not debts of state.
Restricted special fund theory.
Utah Housing Finance Agency bonds and notes.

Construction, scope, and operation of section.

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In order to constitute indebtedness within provisions of constitutional limitation, it is not necessary that debt be evidenced by bonds, notes, or other usual evidences of indebtedness, but it is sufficient if, in order to discharge debt, state is obligated to pay it at some future time, and that it casts future burden upon taxpayer to extent of debt or obligation which must be paid by state with funds derived from general taxation. State ex rel. Univ. of Utah v. Candland, 36 Utah 406, 104 P. 285, 24 L.R.A. (n.s.) 1260, 140 Am. St. R. 834 (1909).

Under Laws 1909, which provided for construction of central building of state university from University of Utah permanent land fund and directed state land board to convert fund into cash, it was held such fund was indebtedness of state and in excess of indebtedness allowed under this section as it formerly read. State ex rel. Univ. of Utah v. Candland, 36 Utah 406, 104 P. 285, 24 L.R.A. (n.s.) 1260, 140 Am. St. R. 834 (1909).

A bond issue by board of trustees of state agricultural college in accordance with legislative enactment for purpose of financing construction of student union building would not violate this section by creating debt against state, where bonds showed on their face that they were special obligations payable solely from revenue to be derived from operation of union, including proceeds of student fees, and not obligations of the state. Spence v. Utah State Agrl. College, 119 Utah 104, 225 P.2d 18 (1950).

Obligations not debts of state.

Where act creating Utah Housing Finance Agency (now see § 9-4-901 et seq.) specifically provided that the obligations of the agency's bonds and notes were not debts of the state, required that agency instruments bear a disclaimer to that effect, and required the agency to maintain a capital reserve fund sufficient to cover currently maturing obligations, agency indebtedness was not a "debt of the state" within the meaning of this section, and the act was constitutional. Utah Hous. Fin. Agency v. Smart, 561 P.2d 1052 (Utah 1977).

Restricted special fund theory.

The restricted special fund theory is based on the reasoning that if any funds of the borrower, other than that derived from the project for which the loan is made, is diverted to pay this loan, then the amount which is so paid out will not be available for other needs of the borrower and the funds for such needs will have to be augmented by general taxation. Conder v. University of Utah, 123 Utah 182, 257 P.2d 367 (1953).

The restricted special fund theory is inapplicable to state institutions. Thus there was no debt where university in borrowing money for construction of dormitories pledged the revenue obtained from the operation of the project and also the income from state land funds. Conder v. University of Utah, 123 Utah 182, 257 P.2d 367 (1953).

Utah Housing Finance Agency bonds and notes.

Where act creating Utah Housing Finance Agency (now see § 9-4-901 et seq.) specifically provided that the obligations of the agency's bonds and notes were not debts of the state, required that agency instruments bear a disclaimer to that effect, and required the agency to maintain a capital reserve fund sufficient to cover currently maturing obligations, agency indebtedness was not a 'debt of the state' within the meaning of this section, and the act was constitutional. Utah Hous. Fin. Agency v. Smart, 561 P.2d 1052 (Utah 1977).

COLLATERAL REFERENCES

Am. Jur. 2d. - 72 Am. Jur. 2d States, Territories, and Dependencies § 78 et seq.

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C.J.S. - 81A C.J.S. States § 213 et seq.

Sec. 2. [Debts for public defense.]

The State may contract debts to repel invasion, suppress insurrection, or to defend the State in war, but the money arising from the contracting of such debts shall be applied solely to the purpose for which it was obtained.

History: Const. 1896.

COLLATERAL REFERENCES

C.J.S. - 81A C.J.S. States §§ 214, 215.

Sec. 3. [Debts of counties, cities, towns, and school districts not to exceed revenue - Exception.]

No debt in excess of the taxes for the current year shall be created by any county or subdivision thereof, or by any school district therein, or by any city, town or village, or any subdivision thereof in this State; unless the proposition to create such debt, shall have been submitted to a vote of such qualified electors as shall have paid a property tax therein, in the year preceding such election, and a majority of those voting thereon shall have voted in favor of incurring such debt.

History: Const. 1896.

Cross-References. - Bonds and warrants of cities, counties, and school districts, § 11-1-1 et seq.

Bonds for water, light and sewers, election, §§ 10-7-7, 10-7-8.

Charter cities, Utah Const., Art. XI, Sec. 5.

Municipal Bond Act, § 11-14-1 et seq.

Municipal borrowing power, § 10-8-6.

School district indebtedness, Title 53A, Chapter 18.

NOTES TO DECISIONS

Analysis

Claim against county, city or school district.
Contracts.

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- Promise of salary increase.
- Violations.

County improvement district tax.
County indebtedness.
Metropolitan water districts.
Municipal bonds.
Municipal building authority.
Municipal contract with sewer district.
Municipal contract with water district.
Municipal utilities.
Neighborhood Development Act.
Payment for improvements.
Qualified electors.
School districts.
Special fund doctrine.
"Taxes" construed.
Water conservancy districts.

Claim against county, city or school district.

Under laws in force in 1896 and facts of case, held that county appropriations and expenditures of 1896 did not exceed authorized limit of county indebtedness and that county commissioners' refusal to act on plaintiff's claim for coal furnished county during such year, on ground that such limit had been exceeded, was wrongful. Pleasant Valley Coal Co. v. County Comm'rs, 15 Utah 97, 48 P. 1032 (1897).

No liability can arise by implication against a county unless the current revenues are sufficient to meet the obligation incurred. Pardee v. Salt Lake County, 39 Utah 482, 118 P. 122, 36 L.R.A. (n.s.) 377, 1913E Ann. Cas. 200 (1911).

Defense that debt upon which claim against disincorporated city is based was incurred in violation of this section was meritorious. Nielson v. Utah Nat'l Bank, 40 Utah 95, 120 P. 211 (1911).

It was duty of school district to apply funds raised through tax levy to purposes for which they were authorized to make such levy, and application of such funds to other purposes could not defeat claims of parties who had contracted with board in belief that funds raised by tax levy would be applied to purposes for which they had been collected and would not be applied to other purposes of school district. Utah Ass'n of Creditmen v. Board of Educ., 54 Utah 135, 179 P. 975 (1919).

Seller of fixtures to school district which was beyond its debt limit at time of making contract, held entitled to remove so much of property which could be removed without substantial injury to building as to compensate seller for unpaid purchase price with interest; and seller would not be required to refund money paid. Moe v. Millard County Sch. Dist., 54 Utah 144, 179 P. 980 (1919).

Contracts.

- Promise of salary increase.

An alleged contract promising county employees salary increases in the following year violated the provisions and purpose of this article. Weese v. Davis County Comm'n, 834 P.2d 1 (Utah 1992).

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- Violations.

Both express and implied contracts in violation of this provision are null and void. Moe v. Millard County School Dist., 54 Utah 144, 179 P. 980 (1919).

County improvement district tax.

The provisions for levying the special tax contained in § 17A-3-201 et seq. do not act to create a debt in excess of the taxes for the current year contrary to the debt limitation contained in this constitutional provision. Pearson v. Salt Lake County, 9 Utah 2d 388, 346 P.2d 155 (1959).

County indebtedness.

Section 17-4-4, giving county right to appropriate money and incur indebtedness, is not in violation of this provision. Scott v. Salt Lake County, 58 Utah 25, 196 P. 1022 (1921).

Metropolitan water districts.

Power to incur indebtedness not to exceed 10% of assessed valuation given district by § 73A-2-818 did not render Metropolitan Water Districts Act unconstitutional as violation of this section, since district was not subdivision of county. Lehi City v. Meiling, 87 Utah 237, 48 P.2d 530 (1935); Provo City v. Evans, 87 Utah 292, 48 P.2d 555 (1935).

Municipal bonds.

The inhibition of this section only goes to question of excess amount and not to time of payment, and if amount of indebtedness is limited to revenue of current year, there is no objection to providing for payment after year expires. This provision is not violated in absence of proof that debt was in excess of potential revenues for current year from whatever source revenue was legitimately obtainable. Muir v. Murray City, 55 Utah 368, 186 P. 433 (1919); Dickinson v. Salt Lake City, 57 Utah 530, 195 P. 1110 (1921); Scott v. Salt Lake County, 58 Utah 25, 196 P. 1022 (1921).

Commissioners had power to borrow money and issue bonds for payment of which the full faith and credit and taxing power of city was pledged in anticipation of taxes for current year. Dickinson v. Salt Lake City, 57 Utah 530, 195 P. 1110 (1921).

Proposed bond issue of city to improve its waterworks system held debt and incapable of being assumed unless approved as required by this section, and within limitations of Utah Const., Art. XIV, Sec. 4, as against contention that income from waterworks system was pledged to pay interest and principal on bonds which constituted special fund, where income from improvements and from existing waterworks system could not be segregated and income from latter was used to pay other bonds and surplus applied to general obligations of city. Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933).

Proposed bond issue of city to improve and repair waterworks system in an amount in excess of taxes for current year and payable out of waterworks revenue, although valid with respect to limitation of indebtedness by reason of Utah Const., Art. XI, Sec. 5(d), was debt, and hence invalid where issuance was not authorized by taxpaying electors as required by this section. Wadsworth v. Santaquin City, 83 Utah 321, 28 P.2d 161 (1933).

Holders of municipal bonds held invalid as in violation of this section could not recover from city on theory of money had and received, inasmuch as municipality could not incur indebtedness in anticipation without an election. The constitutional provisions, enacted as a protection for the taxpayers against an abuse of their credit, is absolute in nature. If recovery is allowed against the municipality on a theory of money had and received, the entire purpose for which the provision exists is contravened. State v. Spring City, 123 Utah 471, 260 P.2d 527 (1953).

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Municipal building authority.

A debt of a municipal building authority for which the county is not responsible is not subject to the restrictions of this section. Municipal Bldg. Auth. v. Lowder, 711 P.2d 273 (Utah 1985).

Municipal contract with sewer district.

A 50-year contract does not create an indebtedness as the term is used in this section where the contract provides for monthly payments for services, the amount of the payments would vary with the amount of service, and the city cannot be coerced to make payments except from funds received as operating expenses. Bair v. Layton City Corp., 6 Utah 2d 138, 307 P.2d 895 (1957).

Municipal contract with water district.

Under a contract whereby the city purchased 1000 acre feet of water annually and was to pay a certain amount over a period of 60 years, there was no municipal debt even though the total of the 60 installments exceeded the taxes for the current year. The contract provided that taxes were to be levied annually by the district at a rate sufficient to produce the amount specified less any amount paid from water revenues and other sources. Barlow v. Clearfield City Corp., 1 Utah 2d 419, 268 P.2d 682 (1954).

Municipal utilities.

A city, by entering into contract to purchase a power plant, cost thereof to be paid out of revenues of plant, does not thereby create such an "indebtedness" as is contemplated by this and sec. 4 of this article; accordingly, proposition does not have to be submitted to the voters. Nor does provision requiring city to credit special fund derived from revenues of plant at present cost thereof, for all product or service of said plant used by city for public purposes, create "indebtedness" within constitutional prohibition. Barnes v. Lehi City, 74 Utah 321, 279 P. 878 (1929).

Neighborhood Development Act.

Because the bonds authorized under § 17A-2-1201 et seq. do not constitute a debt or obligation of the community under the auspices of which they are issued and prohibit the use of the credit of the city or county for repayment, relying instead on the revenues generated by the bonded facility and taxes allocated, they do not constitute a city or county debt and cannot offend this section. Tribe v. Salt Lake City Corp., 540 P.2d 499 (Utah 1975); Salt Lake County v. Murray City Redevelopment, 598 P.2d 1339 (Utah 1979).

Payment for improvements.

Necessary improvements must be paid for either out of revenues within treasury or such as may be lawfully anticipated as revenues of current year, or debt incurred for such improvements must be authorized by majority vote of qualified electors as provided by this section, and be within constitutional limitation as required by Utah Const., Art. XIV, Sec. 4, or be paid exclusively out of net earnings or incomes of property or improvements purchased. Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933).

Qualified electors.

Provision in this section restricting voting franchise to qualified electors having paid property tax was rendered inoperable by decision in City of Phoenix v. Kolodziejski, 399 U.S. 204, 90 S. Ct. 1990, 26 L. Ed. 2d 523 (1970), but this provision is severable so that bond elections participated in by all qualified voters without limitation to those paying property taxes may be held and bonds issued. Cypert v. Washington County School Dist., 24 Utah 2d 419, 473 P.2d 887 (1970).

School districts.

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Consolidated school district did not have power to issue and sell bonds of consolidated district to pay indebtedness created before consolidation in violation of this provision. Kelly v. Board of Educ., 56 Utah 582, 191 P. 1070 (1920).

Sinking fund and special levy for sinking fund purposes may be regarded as legal offset in arriving at amount of constitutional debt limit of school district; but levy for general school purposes cannot be deducted. Cutler v. Board of Educ., 57 Utah 73, 192 P. 621 (1920).

Special fund doctrine.

The purpose of this section and Sec. 4 is to serve as a limit to taxation and as a protection to taxpayers. It does not, however, apply to a case where public property is purchased or constructed, and payment therefor is to be made exclusively from the revenue derived from the property. Barnes v. Lehi City, 74 Utah 321, 340, 279 P. 878 (1929).

Where public property is purchased or constructed and payment therefor is to be made exclusively from revenues derived from the property, which is the special fund doctrine, this section does not apply. Utah Power & Light Co. v. Provo City, 94 Utah 203, 74 P.2d 1191 (1937), cert. denied, 305 U.S. 628, 59 S. Ct. 92, 83 L. Ed. 402 (1938).

Proposed issuance of bonds for construction of electric plant by a municipality, which were payable solely from system's revenues, held authorized under the "special fund doctrine," and the city could not be restrained in such proceeding. Utah Power & Light Co. v. Ogden City, 95 Utah 161, 79 P.2d 61 (1938).

"Taxes" construed.

The word "taxes" in this provision means all revenue, including that which is uncollected. Scott v. Salt Lake County, 58 Utah 25, 196 P. 1022 (1921).

"Taxes for the current year," as used in this section, means revenues of the current year, and includes all revenues of the city, including taxes, license fees, waterworks income, and department fees. Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933).

Water conservancy districts.

This constitutional inhibition applies only to cities, towns and villages and subdivisions of such cities, towns or villages, and does not apply to water conservancy districts, which are not municipalities within the contemplation of that term as used in the Constitution. Patterick v. Carbon Water Conservancy Dist., 106 Utah 55, 145 P.2d 503 (1944).

COLLATERAL REFERENCES

Utah Law Review. - Note: Constitutional Restrictions Upon Municipal Indebtedness, 1966 Utah L. Rev. 462.

Recent Developments in Utah Law - Judicial Decisions - Constitutional Law, 1987 Utah L. Rev. 82.

Am. Jur. 2d. - 56 Am. Jur. 2d Municipal Corporations, Counties and Other Political Subdivisions § 580; 64 Am. Jur. 2d Public Securities and Obligations § 50 et seq.

C.J.S. - 20 C.J.S. Counties § 191; 64 C.J.S. Municipal Corporations §§ 1858 to 1861; 79 C.J.S. Schools and School Districts § 327.

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Sec. 4. [Limit of indebtedness of counties, cities, towns and school districts.]

When authorized to create indebtedness as provided in Section 3 of this Article, no county shall become indebted to an amount, including existing indebtedness exceeding two per centum. No city, town, school district or other municipal corporation, shall become indebted to an amount, including existing indebtedness, exceeding four per centum of the value of the taxable property therein, the value to be ascertained by the last assessment for State and County purposes, previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes; provided, that no part of the indebtedness allowed in this section shall be incurred for other than strictly county, city, town or school district purposes; provided further, that any city of the first and second class when authorized as provided in Section three of this article, may be allowed to incur a larger indebtedness, not to exceed four per centum and any city of the third class, or town, not to exceed eight per centum additional, for supplying such city or town with water, artificial lights or sewers, when the works for supplying such water, light and sewers, shall be owned and controlled by the municipality.

History: Const. 1896; L. 1909, H.J.R. 3.

Cross-References. - Appropriations and tax limitation, § 59-17a-101 et seq.

Charter cities, Utah Const., Art. XI, Sec. 5.

NOTES TO DECISIONS

Analysis

Charter cities extended indebtedness limit.
County improvement district.
County roads.
Metropolitan water district.
Municipal bonds.
Municipal building authority.
Municipal utilities.
Neighborhood Development Act.
Payment for improvements.
School districts.
Special fund doctrine.
"Value" construed.
Water conservancy districts.

Charter cities extended indebtedness limit.

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Limit of indebtedness as provided by this section has been extended by Utah Const., Art. XI, Sec. 5(d). Wadsworth v. Santaquin City, 83 Utah 321, 28 P.2d 161 (1933).

County improvement district.

A bond issue by a county improvement district to be paid for from special assessments to become a lien against the adjoining real property does not create a county debt contrary to this constitutional provision. Pearson v. Salt Lake County, 9 Utah 2d 388, 346 P.2d 155 (1959).

County roads.

Construction, maintenance, and repair of county roads is county purpose. Moyle v. Board of Comm'rs, 53 Utah 352, 178 P. 918 (1919).

Metropolitan water district.

Metropolitan water district is not a municipal corporation, and hence not subject to the 4% debt limitation imposed by this section. Lehi City v. Meiling, 87 Utah 237, 48 P.2d 530 (1935); Provo City v. Evans, 87 Utah 292, 48 P.2d 555 (1935).

Municipal bonds.

Legislature has inherent power to authorize municipality to issue bonds for its indebtedness; this section limits legislature's power. People ex rel. O'Meara v. City Council, 23 Utah 13, 64 P. 460 (1900).

Proposed bond issue of city to improve its waterworks system was a debt subject to limitations of this section as against contention that income from waterworks system was pledged to pay interest and principal on bonds which constituted special fund, where income from improvements and from existing waterworks system could not be segregated and income from latter was used to pay other bonds and surplus applied to general obligations of city. Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933).

Municipal building authority.

A debt of a municipal building authority for which the county is not responsible is not subject to the restrictions of this section. Municipal Bldg. Auth. v. Lowder, 711 P.2d 273 (Utah 1985).

Municipal utilities.

This section contemplates that municipally owned and controlled utilities shall not be subject to the jurisdiction of the public utilities commission, but shall be wholly controlled by the city. Logan City v. Public Util. Comm'n, 72 Utah 536, 271 P. 961 (1928).

City by entering into contract to purchase a power plant for its inhabitants, cost of plant to be paid out of revenue of plant, does not thereby create such an "indebtedness" as is contemplated by this section; accordingly, proposition does not have to be submitted to the voters. Nor does provision requiring city to credit special fund derived from revenues of plant at present cost thereof, for all product or service of plant used by city for public purposes, create "indebtedness" within prohibition. Barnes v. Lehi City, 74 Utah 321, 279 P. 878 (1929).

Neighborhood Development Act.

Because the bonds authorized under § 17A-2-1201 et seq. do not constitute a debt or obligation of the community under the auspices of which they are issued and prohibit the use of the credit of the city or county for repayment, relying instead on the revenues generated by the bonded facility and taxes allocated, they do not constitute a city or county debt and cannot offend this section. Tribe v. Salt Lake City Corp., 540 P.2d 499 (Utah 1975); Salt Lake County v. Murray City Redevelopment, 598 P.2d 1339 (Utah 1979).

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Payment for improvements.

Necessary improvements must be paid for either out of revenues within treasury or such as may be lawfully anticipated as revenues of current year, or debt incurred for such improvements must be authorized by majority vote of qualified electors as provided by Utah Const., Art. XIV, Sec. 3, and be within constitutional limitation as required by this section, or be paid exclusively out of net earnings or incomes of property or improvements purchased. Fjeldsted v. Ogden City, 83 Utah 278, 28 P.2d 144 (1933).

School districts.

Sinking fund and special levy for sinking fund purposes may be regarded as legal offset in arriving at amount of constitutional debt limit of school district; but levy for general school purposes cannot be deducted. Cutler v. Board of Educ., 57 Utah 73, 192 P. 621 (1920).

Special fund doctrine.

Where public property is purchased or constructed and payment therefor is to be made exclusively from revenues derived from the property, which is the special fund doctrine, this section does not apply. Utah Power & Light Co. v. Provo City, 94 Utah 203, 74 P.2d 1191 (1937), cert. denied, 305 U.S. 628, 59 S. Ct. 92, 83 L. Ed. 402 (1938).

Proposed issuance of bonds for construction of electric plant by a municipality, which were payable solely from system's revenues, held authorized under the "special fund doctrine," and the city could not be restrained in such proceeding. Utah Power & Light Co. v. Ogden City, 95 Utah 161, 79 P.2d 61 (1938).

"Value" construed.

The word "value" standing by itself can have only one meaning, namely the full worth or actual value, and not a fractional share thereof. Board of Educ. v. Passey, 122 Utah 102, 246 P.2d 1078 (1952).

The direction that the "value" be "ascertained by the last assessment for State and County purposes, previous to the incurring of such indebtedness" is not a mandate that the assessed valuation upon which taxes are computed be adopted as the "value." What is meant by that phrase is that the last assessment is the source for finding what is the amount of the "value." Board of Educ. v. Passey, 122 Utah 102, 246 P.2d 1078 (1952).

The figure to be used in determining the debt limitation is the full value of the property computed from the assessor's 40% figure. The assessor is required to assess all taxable property at 40% of its reasonable fair cash value, according to § 59-5-1, but the value for debt limitation under this section is that figure, 40% of which equals the assessor's figure. State v. Spring City, 123 Utah 471, 260 P.2d 527 (1953).

Water conservancy districts.

This constitutional inhibition applies only to cities, towns and villages and subdivisions of such cities, towns or villages, and does not apply to water conservancy districts, which are not municipalities within the contemplation of that term as used in the Constitution. Patterick v. Carbon Water Conservancy Dist., 106 Utah 55, 145 P.2d 503 (1944).

COLLATERAL REFERENCES

Utah Law Review. - Note: Constitutional Restrictions Upon Municipal Indebtedness, 1966 Utah L. Rev. 462.

Recent Developments in Utah Law - Judicial Decisions - Constitutional Law, 1987 Utah L. Rev. 82.

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Am. Jur. 2d. - 56 Am. Jur. 2d Municipal Corporations, Counties, and other Political Subdivisions § 592 et seq.; 68 Am. Jur. 2d Schools § 99 et seq.

C.J.S. - 20 C.J.S. Counties §§ 188 to 190; 64 C.J.S. Municipal Corporations § 1846 et seq.; 79 C.J.S. Schools and School Districts § 323 et seq.

Sec. 5. [Borrowed money to be applied to authorized use.]

All moneys borrowed by, or on behalf of the State or any legal subdivision thereof, shall be used solely for the purpose specified in the law authorizing the loan.

History: Const. 1896.

Compiler's Notes. - Laws 1996, S.J.R. 6 proposes amending this section. The tetxt of the proposed amendment follows this current version.

NOTES TO DECISIONS

Analysis

Diversion of funds.
Notice of purpose of bonds.

Diversion of funds.

Insertion of provisions in municipal contract to relieve unemployment, which, however, unnecessarily increased the cost of the work to the city, amounted to a diversion of funds to the extent thereof. Bohn v. Salt Lake City, 79 Utah 121, 8 P.2d 591, 81 A.L.R. 215 (1932).

Ordinance which authorized issuance of bonds for improvement of waterworks and for construction of such extensions or enlargements and making such other improvements and repairs to such system as might appear necessary or advisable was not objectionable as permitting diversion of funds to another purpose contrary to this section. Fjeldsted v. Ogden City, 84 Utah 302, 35 P.2d 825 (1934).

Notice of purpose of bonds.

Whenever bonded indebtedness is to be incurred or created, city council is required, by order or resolution, and in published notice to electors, to specify purpose for which indebtedness is to be created or incurred, and for which proposed bonds are to be issued, and notice that merely states indebtedness is to be created, and bonds issued "for general corporate purposes" is entirely too general. State ex rel. Willis v. Heber City, 36 Utah 1, 102 P. 309 (1909).

COLLATERAL REFERENCES

Am. Jur. 2d. - 63A Am. Jur. 2d Public Funds § 3 et seq.

C.J.S. - 81A C.J.S. States § 204 et seq.

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Sec. 6. [State not to assume county, city, town or school district debts - Exception.]

The State shall not assume the debt, or any part thereof, of any county, city, town or school district except as provided in Article X, Section 5.

History: Const. 1896; 1996, S.J.R. 6, § 5.

Amendment Notes. - Laws 1996, S.J.R. 6, § 5 proposed amending this section by adding "except as provided in Article X, Section 5" to the end of the section. The proposed amendment was approved by the voters at the 1996 general election and took effect on January 1, 1997.

COLLATERAL REFERENCES

C.J.S. - 81A C.J.S. States § 213 et seq.

Sec. 7. [Existing indebtedness not impaired.]

Nothing in this article shall be so construed as to impair or add to the obligation of any debt heretofore contracted, in accordance with the laws of Utah Territory, by any county, city, town or school district, or to prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose, which, according to said laws, may have been submitted to a vote of the qualified electors of any county, city, town or school district before the day on which this Constitution takes effect.

History: Const. 1896.

COLLATERAL REFERENCES

C.J.S. - 20 C.J.S. Counties § 193; 64 C.J.S. Municipal Corporations § 1878; 79 C.J.S. Schools and School Districts § 331.

Sec. 8. [Special service districts.]

(1) The Legislature by general statute may authorize:

(a) any county, city, or town to establish special districts within all or any part of the county, city, or town to be governed by the governing authority of the county, city, or town, and each special district may provide water, sewerage, drainage, flood control, garbage, transportation, recreation, health care, and fire protection services or any combination of these services in accordance with that statute;

(b) any county, city, or town to levy taxes upon the taxable property in such special district

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for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities required for any or all of such services; and

(c) any special district to issue bonds of the special district for the purpose of acquiring, constructing, and equipping any of these facilities without regard to the limitations of Sections 3 and 4 of this Article XIV but subject to such limitation on the aggregate amount of these bonds which may be outstanding at any one time as may be provided by statute.

(2) The authority to levy taxes upon the taxable property in these districts and to issue bonds of these districts payable from taxes levied on the taxable property in them shall be conditioned upon the assent of a majority of the qualified electors of the district voting in an election for this purpose to be held as provided by statute.

(3) Any such district created by a county may contain all or part of any incorporated municipality or municipalities but only with the consent of the governing authorities thereof.

History: L. 1974 (2nd S.S.), S.J.R. 2; 1989, H.J.R. 26.

Cross-References. - "Service district" defined, § 17A-2-1302(5).

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I.

Section 11-14-19 Utah Code Annotated— Municipal Bond Act

11-14-19. General obligation bonds - Levy and collection of taxes.

Any bonds issued hereunder in such manner that they are not payable solely from revenues other than those derived from ad valorem taxes shall constitute full general obligations of the municipality, for the prompt and punctual payment of principal of and interest on which the full faith and credit of the municipality are pledged, and the municipality is hereby expressly required, regardless of any limitations which may otherwise exist on the amount of taxes which the municipality may levy, to provide for the levy and collection annually of ad valorem taxes without limitation as to rate or amount on all taxable property in the municipality fully sufficient for such purpose. If by law ad valorem taxes for the municipality are levied by a board other than its governing body, the taxes for which provision is herein made shall be levied by such other board and the municipality shall be under the duty in due season in each year to provide such other board with all information necessary to the levy of taxes in the required amount. Such taxes shall be levied and collected by the same officers, at the same time and in the same manner as are other taxes levied for the municipality.

If any municipality shall neglect or fail for any reason to levy or collect or cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, any person in interest may enforce levy and collection thereof in any court having jurisdiction of the subject matter, and any suit, action or proceeding brought by such person in interest shall be a preferred cause and shall be heard and disposed of without delay. All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales shall also apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the municipality.

History: L. 1965, ch. 41, § 20.

Cross-References. - Property tax levy, cities and towns, Utah Const., Art. XIII, Sec. 5.

Taxation, Title 59.

COLLATERAL REFERENCES

Utah Law Review. - Development Fees: Standards to Determine Their Reasonableness, 1982 Utah L. Rev. 549, 553.

Am. Jur. 2d. - 64 Am. Jur. 2d Public Securities and Obligations § 399 et seq.

C.J.S. - 64 C.J.S. Municipal Corporations §§ 1955, 1972 to 1977, 1997.

11-14-19.5. Bond anticipation notes.

(1) Whenever the governing body considers it advisable and in the interests of the municipality to anticipate the issuance of bonds to be issued under this chapter, the governing body may, pursuant to appropriate resolution, issue bond anticipation notes. Each resolution authorizing the issuance of bond anticipation notes shall:

(a) describe the bonds in anticipation of which the notes are to be issued; and

(b) specify the principal amount of the notes and the maturity dates of the notes. The resolution shall specify either the rates of interest, if any, on the notes or specify the method by which interest on the notes may be determined while the notes are outstanding. If the resolution specifies a method by which the interest rates on the notes may be determined, the resolution may specify the maximum rate of interest which the notes may bear.

(2) Bond anticipation notes shall be issued and sold in a manner and at a price, either at, below, or above face value, as the governing body determines by resolution. Interest on bond anticipation notes may be made payable semiannually, annually, or at maturity. Bond anticipation notes may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Bond anticipation notes shall be executed and shall be in a form and have details and terms as provided in the authorizing resolution.

(3) Contemporaneously with the issuance of the bonds in anticipation of which bond anticipation notes are issued, provision shall be made for the retirement of any outstanding bond anticipation notes.

(4) Whenever the bonds in anticipation of which notes are issued are to be payable from ad valorem taxes and constitute full general obligations of the municipality, the bond anticipation notes and the interest on them shall be secured by a pledge of the full faith and credit of the municipality in the manner provided in Section 11-14-19 and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued. Whenever the bonds in anticipation of which the notes are to be issued are to be payable solely from revenues derived from the operation of revenue-producing facilities, these bond anticipation notes and the interest on them shall be secured by a pledge of the income and revenues derived by the municipality from the revenue-producing facilities and shall also be made payable from funds derived from the sale of the bonds in anticipation of which the notes are issued.

(5) Bond anticipation notes issued under this section may be refunded by the issuance of other bond anticipation notes issued under this section.

(6) Sections 11-14-15, 11-14-16, 11-14-20, 11-14-21, and 11-14-22 apply to all bond anticipation notes issued under this section.

(7) Bonds are not considered to have been issued more than ten years after the date of the election authorizing the issuance of them, under Section 11-14-13, if the issuance of these bonds has been anticipated under this section by bond anticipation notes issued prior to the expiration of this ten-year period.

History: C. 1953, 11-14-19.5, enacted by L. 1975, ch. 115, § 7; 1983, ch. 346, § 4; 1985, ch. 79, § 1.

Cross-References. - Residential rehabilitation, bond anticipation notes, § 11-25-5.

11-14-19.6. Prior bonds validated - Exceptions.

All bonds issued by any municipality prior to the effective date of this act and all proceedings had in the authorization and issuance of them are hereby validated, ratified, and confirmed; and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, the legality of which is being contested at the time this act takes effect.

History: C. 1953, 11-14-19.6, enacted by L. 1975, ch. 115, § 10.

Compiler's Notes. - The terms "the effective date of this act" and "the time this act takes effect" mean the effective date of Laws 1975, ch. 115, i.e., July 1, 1975.

11-14-19.7. Issuance of negotiable notes or bonds authorized - Limitation on amount of tax anticipation notes or bonds - Procedure.

(1) For the purpose of meeting the current expenses of the municipality and for any other purpose for which funds of the municipality may be expended, the governing body may borrow money not in excess of 90% of the taxes and other revenues of the municipality for the current year, issuing therefor negotiable notes or bonds of the municipality. In the event that such notes or bonds are issued prior to the annual tax levy for the year in which such indebtedness is contracted, the amount so issued shall not exceed 75% of the tax revenues and other revenues of the preceding year, and the proceeds shall be applied only in payment of current and necessary expenses and other purposes for which funds of the municipality may be expended, and there shall be included in the annual levy a tax and there shall be provision made for the imposition and collection of sufficient revenues other than taxes sufficient to pay the same at maturity. In the event that the taxes and other revenues in any one year are insufficient through delinquency or uncollectibility of taxes or other cause to pay when due all the lawful debts of the municipality which have been or may hereafter be contracted, the governing body of the municipality is authorized and directed to levy and collect in the next succeeding year a sufficient tax and to provide for the imposition and collection of sufficient revenues other than taxes to pay all of such lawfully contracted indebtedness, and may borrow as provided in this section in anticipation of such tax and other revenues to pay any such lawfully contracted indebtedness. Each resolution authorizing the issuance of tax anticipation notes shall:

(a) Describe the taxes or revenues in anticipation of which the notes are to be issued; and

(b) Specify the principal amount of the notes, the interest rates, if any, (including a variable interest rate), the notes shall bear, and the maturity dates of the notes, which dates shall not extend beyond the last day of the issuing municipality's fiscal year.

(2) Tax anticipation notes shall be issued and sold in such manner and at such prices (whether at, below, or above face value) as the governing body shall by resolution determine. Tax anticipation notes shall be in bearer form, except that the governing body may provide for the registration of the notes in the name of the owner, either as to principal alone, or as to principal and interest. Tax anticipation notes may be made redeemable prior to maturity at the option of the governing body in the manner and upon the terms fixed by the resolution authorizing their issuance. Tax anticipation notes shall be executed and shall be in such form and have such details and terms as shall be provided in the authorizing resolution.

(3) The provisions of Sections 11-14-14.5, 11-14-15, 11-14-16, 11-14-19.7, 11-14-20, 11-14-21, 11-14-22, 11-14-24, and 11-14-25 shall apply to all tax anticipation notes issued under

this section. In applying these sections to tax anticipation notes, "bond" or "bonds" as used in these sections shall be deemed to include tax anticipation notes.

(4) "Municipality" as used in this section shall have the meaning set forth in Section 11-14-1.

History: C. 1953, 11-14-19.7, enacted by L. 1981, ch. 280, § 4; 1983, ch. 345, § 1.

11-14-19.8. Tax anticipation obligations validated.

All obligations issued in anticipation of the collection of taxes and other revenues by any municipality prior to the effective date of this act and all proceedings had in the authorization and issuance of them are validated, ratified, and confirmed; and all these obligations are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any of these obligations, the legality of which is being contested at the time this act takes effect.

History: C. 1953, 11-14-19.8, enacted by L. 1981, ch. 280, § 5.

Compiler's Notes. - The terms "effective date of this act" and "the time this act takes effect" mean the effective date of Laws 1981, ch. 280, i.e., January 26, 1981.

11-14-20. Nature and validity of bonds issued - Applicability of other statutory provisions - Budget provision required - Applicable procedures for issuance.

Bonds issued under this act shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale. This act is intended to afford an alternative method for the issuance of bonds by municipalities and shall not be so construed as to deprive any municipality of the right to issue its bonds under authority of any other statute, but nevertheless this act shall constitute full authority for the issue and sale of bonds by municipalities. The provisions of Section 11-1-1, Utah Code Annotated 1953, shall not be applicable to bonds issued under this act. Any municipality subject to the provisions of any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on bonds issued hereunder, but no provision need be made in any such budget prior to the issuance of the bonds for the issuance thereof or for the expenditure of the proceeds thereof. No ordinance, resolution or proceeding in respect to the issuance of bonds hereunder shall be necessary except as herein specifically required, nor shall the publication of any resolution, proceeding or notice relating to the issuance of the bonds be necessary except as herein required. Any publication made hereunder may be made in any newspaper conforming to the terms hereof in which legal notices may be published under the laws of Utah, without regard to the designation thereof as the official journal or newspaper of the municipality. No resolution adopted or proceeding taken hereunder shall be subject to referendum petition or to an election other than as herein required. All proceedings adopted hereunder may be adopted on a single reading at any legally convened meeting of the governing body.

History: L. 1965, ch. 41, § 21.

Meaning of "this act". - See the note under this catchline under § 11-14-9.

11-14-21. Publication of notice, resolution, or other proceeding - Contest.

(1) If a municipality has one or more newspapers published within its boundaries, the governing body of the municipality shall, from time to time, designate one of the newspapers as the "official newspaper" for the publication of all notices required under this chapter. Otherwise, the governing body, from time to time, shall designate a newspaper with general circulation in the municipality as the "official newspaper" for the publication of such notices.

(2) The governing body of any public body may provide for the publication of any resolution or other proceeding adopted by it under this chapter in the "official newspaper" designated under Subsection (1).

(3) In case of a resolution or other proceeding providing for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at an office of the issuer, identified in the notice, during regular business hours of the issuer as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) For a period of 30 days after the publication any person in interest may contest the legality of such resolution or proceeding, any bonds which may be authorized by such resolution or proceeding, or any provisions made for the security and payment of the bonds. After the 30-day period no person may contest the regularity, formality, or legality of such resolution or proceeding for any cause.

History: C. 1953, 11-14-21, enacted by L. 1977, ch. 45, § 7; 1983, ch. 346, § 5; 1987, ch. 201, § 1.

11-14-22. Short title - Title to appear on face of bonds - Effect of future statutes dealing with municipal bond issues.

This act may be cited as the "Utah Municipal Bond Act," all bonds issued pursuant to authority contained in this act shall contain on their face a recital to that effect, and no act hereafter passed by the legislature amending other acts under which bonds authorized to be issued by this act might be issued or dealing with bond issues of municipalities shall be construed to affect the authority to proceed under this act in the manner herein provided unless such future statute amends this act and specifically provides that it is to be applicable to bonds issued under this act.

History: L. 1965, ch. 41, § 23.

Meaning of "this act". - See the note under this catchline under § 11-14-9.

11-14-23. Exemptions from application of chapter - Exception.

This chapter shall not apply to bonds issued by the state of Utah nor to bonds or obligations payable solely from special assessments levied on benefited property, except with respect to Section 11-14-14.5 which shall have general application in accordance with its terms.

History: L. 1965, ch. 41, § 24; 1967, ch. 28, § 1; 1981, ch. 280, § 6.

11-14-24. Conflict of laws.

To the extent that any one or more provisions of this act shall be in conflict with any other law or laws, the provisions of this act shall be controlling.

History: L. 1965, ch. 41, § 26.

Meaning of "this act". - See the note under this catchline under § 11-14-9.

11-14-25. Separability clause.

If any one or more sentences, clauses, phrases, provisions or sections of this act or the application thereof to any set of circumstances shall be held by final judgment of any court of competent jurisdiction to be invalid, the remaining sentences, clauses, phrases, provisions and sections hereof and the application of this act to other sets of circumstances shall nevertheless continue to be valid and effective, the legislature hereby declaring that all provisions of this act are severable.

History: L. 1965, ch. 41, § 27.

Meaning of "this act". - See the note under this catchline under § 11-14-9.

11-14-26. Validity of prior bond issues.

All bonds issued by any municipality prior to the effective date of this act and all proceedings had in the authorization and issuance thereof are hereby validated, ratified and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, the legality of which is being contested at the time this act takes effect.

History: L. 1965, ch. 41, § 28.

Compiler's Notes. - The terms "effective date of this act" and "the time this act takes effect" mean the effective date of Laws 1965, ch. 41, i.e., May 11, 1965.

11-14-27. Application of act.

Sections 11-14-2, 11-14-4, 11-14-6, 11-14-7, 11-14-8, 11-14-9, 11-14-12, 11-14-15, and 11-14-18 shall apply to all bond elections and to all bonds issued by any city, town, county, school district, public transit district, improvement district under Title 17A, Chapter 2, Part 3, special service district operating under authority of the Utah Special Service District Act, water conservancy district, metropolitan water district and, except as otherwise provided in Section 11-14-23, by any other taxing district or governmental entity whether or not the bonds are issued pursuant to authority granted by this act and, as to matters provided in Section 11-14-18, this act shall apply to all bonds issued and outstanding as of May 11, 1965, as well as to bonds issued after that date.

History: L. 1965, ch. 41, § 29; 1967, ch. 28, § 1; 1969, ch. 32, § 2, 1975, ch. 116, § 32; 1992, ch. 30, § 19; 1997, ch. 10, § 14.

Amendment Notes. - The 1997 amendment, effective May 5, 1997, deleted "11-14-5" in the string of references and substituted "as of May 11, 1965" for "at the time this act takes effect" making a related change.

Meaning of "this act". - See the note under this catchline under § 11-14-9.

CHAPTER 14a
NOTICE OF DEBT ISSUANCE

Section
11-14a-1. Notice of debt issuance.

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, or special district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall:

(i) advertise its intent to issue debt in a newspaper of general circulation; or

(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.

(b) (i) The local government entity shall ensure that the advertisement is published at least once each week for the two weeks before the meeting at which the resolution will be considered on no less than a 1/4 page or a 5 x 7 inch advertisement with type size no smaller than 18 point and surrounded by a 1/4 inch border.

(ii) The local government entity shall ensure that the notice:

(A) is at least as large as the bill or other mailing that it accompanies;

(B) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(C) contains the information required by Subsection (c).

(c) The local government entity shall ensure that the advertisement or notice:

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and'discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

History: C. 1953, 11-14a-1, enacted by L. 1995, ch. 266, § 1.

Effective Dates. - Laws 1995, ch. 266, § 2 makes the act effective on March 18, 1995.

m.

Section 20A-1 Utah Code Annotated—Election Code, General Provisions

TITLE 20A
ELECTION CODE

Chapter

1. General Provisions.
2. Voter Registration.
3. Voting.
4. Election Returns and Election Contests.
5. Election Administration.
6. Ballot Form.
7. Issues Submitted to the Voters.
8. Political Party Formation and Procedures.
9. Candidate Qualifications and Nominating Procedures.
10. Term Limits Act.
11. Campaign and Financial Reporting Requirements.
12. Selection and Election of Judges.
13. Elections to Federal Offices.
14. Nomination and Election of State and Local School Boards.
15. Convention to Ratify Amendments to the Constitution of the United States.

CHAPTER 1
GENERAL PROVISIONS

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Title and Definitions.

20A-1-101. Title.
20A-1-102. Definitions.

Part 2

Elections: General and Special.

20A-1-201. Date and purpose of regular general elections [Effective until January 1, 2000].
20A-1-201. Date and purpose of regular general elections [Effective January 1, 2000].
20A-1-202. Date and purpose of local elections [Effective until January 1, 2000].
20A-1-202. Date and purpose of local elections [Effective January 1, 2000].
20A-1-203. Calling and purpose of special elections.
20A-1-204. Date of special election - Legal effect.

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20A-1-505. Judicial vacancies - Courts of record.
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20A-1-507. Midterm vacancies in the State Board of Education.
20A-1-508. Midterm vacancies in county elected offices.
20A-1-509. Definitions applicable to Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3
20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.
20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.
20A-1-509.3. Procedure for making interim replacement.
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Election Offenses - Generally.

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20A-1-605. Mutilating certificate of nomination - Forging declination or resignation - Tampering with ballots.

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20A-1-606. Wagering on elections forbidden.
20A-1-607. Inducing attendance at polls - Payment of workers.
20A-1-608. Promises of appointment to office forbidden.
20A-1-609. Omnibus penalties.
20A-1-610. Abetting violation of chapter - Penalty.
20A-1-611. Cost of defense of action no part of campaign expense.

Part 7

Prosecuting and Adjudicating Election Offenses.

20A-1-701. Prosecutions - Venue.
20A-1-702. Repealed.
20A-1-703. Proceedings by registered voter.
20A-1-704. Judgment and findings - Appeal - Criminal prosecution not affected by judgment.
20A-1-705. Supplemental judgment after criminal conviction.
20A-1-706. Special counsel on appeal.

PART 1
TITLE AND DEFINITIONS

20A-1-101. Title.

This title is known as the "Election Code."

History: C. 1953, 20A-1-101, enacted by L. 1993, ch. 1, § 7.

NOTES TO DECISIONS

Construction and application.

The election law seeks liberality of interpretation against disfranchisement. Clegg v. Bennion, 122 Utah 188, 247 P.2d 614 (1952).

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

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(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, and other questions submitted to the voters for their approval or rejection.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(8) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(9) "Bond election" means an election held for the sole purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

(13) "Convention" means the political party convention at which party officers and delegates are selected.

(14) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(17) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the counting judges to count ballots during election day.

(18) "County executive" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county executive in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(19) "County legislative body" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county council in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

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(c) the county council in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

(29) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(30) "Judicial office" means the office filled by any judicial officer.

(31) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(34) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management

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arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the municipal council in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

(38) "Municipal officers" means those municipal officers that are required by law to be elected.

(39) "Municipal primary election" means an election held to nominate candidates for municipal office.

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the election judge's initials; and

(ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the

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regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

(54) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

(56) "Resident" means a person who resides within a specific voting precinct in Utah.

(57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

(59) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(60) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

(61) "Special election" means an election held as authorized by Section 20A-1-204.

(62) "Special district" means those local government entities created under the authority of Title 17A.

(63) "Special district officers" means those special district officers that are required by law to be elected.

(64) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or the election judge; or

(c) lacks the official endorsement.

(65) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(66) "Stub" means the detachable part of each ballot.

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

(68) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(69) "Transfer case" means the sealed box used to transport voted ballots to the counting

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center.

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements of election registration and is registered and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

(c) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(76) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(77) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(78) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

(80) "Write-in ballot" means a ballot containing any write-in votes.

(81) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

History: C. 1953, 20A-1-102, enacted by L. 1993, ch. 1, § 8; 1994, ch. 1, § 5; 1994, ch. 2, § 1; 1996, ch. 198, § 9; 1996, ch. 325, § 1; 1996 (2nd S.S.), ch. 3, § 3; 1997, ch. 183, § 1; 1998, ch. 344, § 1; 1998, ch. 369, § 23.

Link to 1999 Legislation Affecting this Section

Amendment Notes. - The 1994 amendment by ch. 1, effective January 27, 1994, substituted "title" for "chapter" in the introductory language; substituted "and" for "or" in Subsection (5); deleted "and any bond election" from the end of Subsection (20); substituted the present reference for "Subsection 20-3-2.5(1) or (2)" in the definition of "political party"; substituted "fourth Tuesday of June" for "second Tuesday of September" in the definition of "regular primary election"; substituted the second "or" for "and" in the definition of "spoiled ballot"; and made stylistic changes.

The 1994 amendment by ch. 2, effective January 27, 1994, deleted "all defective ballots" from the list in Subsection (25); deleted former Subsection (28), defining "irregular ballots," and renumbered the remaining sections accordingly; substituted "building" for "place" in Subsection (43); in Subsection (54),

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substituted "fourth" for "second" and "June" for "September" and deleted "all" before "political parties"; and added Subsection (78).

The 1996 amendment by ch. 325, effective April 29, 1996, in Subsection (42) substituted "Chapter 8" for "Chapter 7" and in Subsection (59) substituted "as authorized by Section 20A-1-204" for "on any Tuesday other than the first Tuesday after the first Monday of November in any year."

The 1996 amendment by ch. 198, effective July 1, 1996, rewrote Subsection (29) and substituted "8" for "7" in Subsection (42).

The 1996 (2nd S.S.) amendment, effective April 30, 1996, substituted "satellite registrar" for "registration agent" in Subsection (24); deleted former Subsection (50), defining "registration agent," and redesignated former Subsections (51) through (56) as Subsections (50) through (55); and added Subsection (56).

The 1997 amendment, effective May 5, 1997, added the definition of "active voter" as Subsection (1) and "inactive voter" as Subsection (28), redesignating subsections accordingly.

The 1998 amendment by ch. 344, effective May 4, 1998, added the language beginning "and for certain special" at the end of Subsections (24)(b) and (24)(c).

The 1998 amendment by ch. 369, effective May 4, 1998, in Subsections (18) and (19) substituted "government" for "management arrangement" wherever it appeared, adding "form of" before it where it did not already appear and updated the section references; added "County Commissioners and Legislative Bodies" at the end of Subsection (19)(a); and added "Governing Body" at the end of Subsection (37)(a).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

PART 2
ELECTIONS: GENERAL AND SPECIAL

20A-1-201. Date and purpose of regular general elections [Effective until January 1, 2000].

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

(vii) State School Board members;

(viii) local school board members; and

(ix) any elected judicial officers; and

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(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

20A-1-201. Date and purpose of regular general elections [Effective January 1, 2000].

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

(vii) State School Board members;

(viii) local school board members;

(ix) any elected judicial officers; and

(x) special district officers; and

(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

History: C. 1953, 20A-1-201, enacted by L. 1993, ch. 1, § 9; 1994, ch. 21, § 3; 1998, ch. 362,

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§ 3.

Amendment Notes. - The 1994 amendment, effective March 1, 1994, substituted the phrases citing the Utah Code for "as provided by law" in Subsection (2)(b).

The 1998 amendment, effective January 1, 2000, added Subsection (2)(a)(x), making a related change.

Cross-References. - Elections generally, constitutional provisions, Utah Const., Art. IV.

Free elections, Utah Const., Art. I, Sec. 17.

Legislature, members of house and senate, how and when chosen, eligibility for office, Utah Const., Art. VI, Secs. 3 to 6.

Soldiers voting, Utah Const., Art. I, Sec. 17.

Terms of officers elected at general election, commencement of, Utah Const., Art. IV, Sec. 9.

United States citizenship required, Utah Const., Art. IV, Sec. 5.

NOTES TO DECISIONS

Special election.

A sewer bond election (a special election under former § 20-1-3) was void because it was held on a general election day. Hamilton v. Salt Lake County Sewerage Imp. Dist., 15 Utah 2d 216, 390 P.2d 235 (1964).

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 318.

C.J.S. - 29 C.J.S. Elections §§ 66, 76, 77.

20A-1-202. Date and purpose of local elections [Effective until January 1, 2000].

(1) A municipal general election shall be held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a) choose persons to serve as municipal and special district officers; and

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

20A-1-202. Date and purpose of local elections [Effective January 1, 2000].

(1) A municipal general election shall be held in municipalities on the first Tuesday after the

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first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a) choose persons to serve as municipal officers; and

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

History: C. 1953, 20A-1-202, enacted by L. 1993, ch. 1, § 10; 1994, ch. 21, § 4; 1998, ch. 362, § 4.

Amendment Notes. - The 1994 amendment, effective March 1, 1994, substituted "that are authorized by the Utah Code" for "as provided by law" at the end of Subsection (2)(b)(ii).

The 1998 amendment, effective January 1, 2000, deleted "and special district" after "municipalities" in Subsection (1) and "municipal" in Subsection (2)(a).

20A-1-203. Calling and purpose of special elections.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or 53A-17a-134;

(iii) a referendum authorized by Title 20A, Chapter 7, Part 6; and

(iv) an initiative authorized by Title 20A, Chapter 7, Part 5.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election; and

(ii) the purpose for the local special election.

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History: C. 1953, 20A-1-203, enacted by L. 1993, ch. 1, § 11; 1993, ch. 228, § 1; 1995, ch. 340, § 2; 1996, ch. 325, § 2.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, substituted "special election" for "general election" in six places and corrected statutory references in Subsections (5)(a)(iii) and (5)(a)(iv).

The 1996 amendment, effective April 29, 1996, substituted "legislative body" for "governing body" in Subsections (5)(a) and (5)(b) and added "or debt" in Subsection (5)(a)(i).

Cross-References. - Public transit district elections, § 17A-2-1037.

NOTES TO DECISIONS

Analysis

Fence law election.
Notice of election.
Sewer bond election.

Fence law election.

Failure of board of county commissioners to provide for and hold registration for the citizens for a special election on the desirability of a fence law was held not to violate Utah Const., Art. IV, Sec. 2. Nowers v. Oakden, 110 Utah 25, 169 P.2d 108 (1946).

Notice of election.

Notice of time and place of holding special election is of substance, and unless there is substantial compliance with statute in this regard, election ordinarily cannot be held valid. State ex rel. Utah Sav. & Trust Co. v. Salt Lake City, 35 Utah 25, 99 P. 255, 18 Ann. Cas. 1130 (1908).

Sewer bond election.

A sewer bond election (a special election under former § 20-1-3) was void when it was held on a general election day designated in former § 20-1-1. Hamilton v. Salt Lake County Sewerage Imp. Dist., 15 Utah 2d 216, 390 P.2d 235 (1964).

COLLATERAL REFERENCES

Am. Jur. 2d. - 25 Am. Jur. 2d Elections § 1 et seq.

C.J.S. - 29 C.J.S. Elections §§ 1(3), 66.

20A-1-204. Date of special election - Legal effect.

(1) (a) The governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall

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schedule the special election to be held on:

(i) the first Tuesday after the first Monday in February;

(ii) the first Tuesday after the first Monday in May;

(iii) the fourth Tuesday in June in even-numbered years;

(iv) the first Tuesday after the first Monday in August; or

(v) the first Tuesday after the first Monday in November.

(b) Except as provided in Subsection (c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) Notwithstanding the requirements of Subsection (b), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(i) determines and declares that there is an emergency requiring that a special election be held on a date other than the ones authorized in statute;

(ii) identifies specifically the nature of the emergency and the reasons for holding the special election on that other date; and

(iii) votes unanimously to hold the special election on that other date.

(d) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) If two or more entities hold a special election within a county on the same day, those entities shall, to the extent practicable, coordinate:

(a) polling places;

(b) ballots;

(c) election officials; and

(d) other administrative and procedural matters connected with the election.

History: C. 1953, 20A-1-204, enacted by L. 1996, ch. 325, § 3.

Link to 1999 Legislation Affecting this Section

Effective Dates. - Laws 1996, ch. 325 became effective on April 29, 1996, pursuant to Utah Const., Art. VI, Sec. 25.

PART 3
ELECTIONS: GENERAL REQUIREMENTS

20A-1-301. Repealed.

Repeals. - Laws 1997, ch. 24, § 15 repeals § 20A-1-301, as last amended by Laws 1994, ch. 2, § 2,

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which provided for a written notice that designated the offices to be filled at the regular general election, effective February 26, 1997.

20A-1-302. Opening and closing of polls.

(1) Polls at all elections open at 7 a.m. and shall remain open until 8 p.m. of the same day.
(2) The election judges shall allow every voter who arrives at the polls by 8 p.m. to vote.

History: C. 1953, 20A-1-302, enacted by L. 1993, ch. 1, § 13; 1993, ch. 228, § 2.

NOTES TO DECISIONS

School bond election.

Resolution of school board calling special bond election and notice of election providing that polls should be open between hours of 1:00 p.m. and 7:00 p.m., and the fact that polls remained open only during those hours, did not invalidate election, since former election code provision did not control special election under former § 53-10-7. Van Orden v. Board of Educ., 56 Utah 430, 191 P. 230 (1920).

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 227.

C.J.S. - 29 C.J.S. Elections § 198.

20A-1-303. Determining results.

(1) (a) When one person is to be elected or nominated, the person receiving the highest number of votes at any:
(i) election for any office to be filled at that election is elected to that office; and
(ii) primary for nomination for any office is nominated for that office.
(b) When more than one person is to be elected or nominated, the persons receiving the highest number of votes at any:
(i) election for any office to filled at that election are elected to that office; and
(ii) primary for nomination for any office are nominated for that office.
(2) Any ballot proposition submitted to voters for their approval or rejection:
(a) passes if the number of "yes" votes is greater than the number of "no" votes; and
(b) fails if:
(i) the number of "yes" votes equal the number of "no" votes; or
(ii) the number of "no" votes is greater than the number of "yes" votes.

History: C. 1953, 20A-1-303, enacted by L. 1993, ch. 1, § 14.

COLLATERAL REFERENCES

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Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 405.

C.J.S. - 29 C.J.S. Elections § 241.

20A-1-304. Tie votes.

If two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall determine by lot which candidate is selected in a public meeting in the presence of each person subject to the tie within 30 days of the canvass or within 30 days of the recount if one is requested or held.

History: C. 1953, 20A-1-304, enacted by L. 1993, ch. 1, § 15.

Compiler's Notes. - Utah Const., Art. VII, Sec. 2 provides that in case of a tie vote for governor, lieutenant governor, state auditor, state treasurer or attorney general the Legislature shall elect one of the candidates.

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 411.

C.J.S. - 29 C.J.S. Elections § 244.

20A-1-305. Publication and distribution of election laws.

(1) The lieutenant governor shall:

(a) publish a sufficient number of copies of Title 20A, Election Code, and any other provisions of law that govern elections; and

(b) transmit copies to each county clerk.

(2) Each county clerk shall:

(a) inform the lieutenant governor of the number of copies needed; and

(b) furnish each election officer in the county with one copy.

History: C. 1953, 20A-1-305, enacted by L. 1993, ch. 1, § 16.

PART 4
ELECTION LAW CONTROVERSIES

20A-1-401. Election laws - Liberally construed - Computation of time.

(1) Courts and election officers shall construe the provisions of Title 20A, Election Code, liberally to carry out the intent of this title.

(2) Saturdays, Sundays, and holidays shall be included in all computations of time made under the provisions of Title 20A, Election Code.

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History: C. 1953, 20A-1-401, enacted by L. 1993, ch. 1, § 17; 1993, ch. 228, § 3.

COLLATERAL REFERENCES

Am. Jur. 2d. - 25 Am. Jur. 2d Elections §§ 2, 3.

C.J.S. - 29 C.J.S. Elections § 7(4).

20A-1-402. Election officer to render interpretations and make decisions.

The election officer shall render all interpretations and make all initial decisions about controversies or other matters arising under this chapter.

History: C. 1953, 20A-1-402, enacted by L. 1993, ch. 1, § 18.

20A-1-403. Errors or omissions in ballots.

(1) The election officer shall, without delay, correct any errors in paper ballots or ballot labels that he discovers, or that are brought to his attention, if those errors can be corrected without interfering with the timely distribution of the paper ballots or ballot labels.

(2) (a) (i) If an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of sample or official ballots, a candidate or his agent may file, without paying any fee, a petition for ballot correction with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The petition shall contain:

(i) an affidavit signed by the candidate or his agent identifying the error or omission; and

(ii) a request that the court issue an order to the election officer responsible for the ballot error or omission to correct the ballot error or omission.

(3) (a) After reviewing the petition, the court shall:

(i) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(ii) summarily hear and dispose of any issues raised by the petition to obtain substantial compliance with the provisions of this title by the parties to the controversy; and

(iii) make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments.

(b) The court may assess costs, including a reasonable attorney's fee, against either party.

History: C. 1953, 20A-1-403, enacted by L. 1993, ch. 1, § 19.

NOTES TO DECISIONS

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Analysis
Incorrect name on ballot.
Power of district court.

Incorrect name on ballot.

Where there was not sufficient time to correct candidate's name on official ballot before election day, ballot should have been counted for person for whom it was intended to be cast, although given name of candidate was erroneously printed. Clark v. Bramel, 57 Utah 146, 192 P. 1111 (1920).

Power of district court.

District court exceeded its jurisdiction in directing correction on official ballot to be made by judges of election, instead of the clerk, though it was physically impossible for clerk to make correction of ballots within time to deliver them as required by statute. Clark v. Bramel, 57 Utah 146, 192 P. 1111 (1920).

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 316.

C.J.S. - 29 C.J.S. Elections §§ 173(1) to 173(4).

20A-1-404. Election controversies.

(1) (a) (i) Whenever any controversy occurs between any election officer or other person or entity charged with any duty or function under this title and any candidate, or the officers or representatives of any political party, or persons who have made nominations, either party to the controversy may file a verified petition with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The verified petition shall identify concisely the nature of the controversy and the relief sought.

(2) After reviewing the petition, the court shall:

(a) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(b) summarily hear and dispose of any issues raised by the petition to obtain substantial compliance with the provisions of this title by the parties to the controversy; and

(c) make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments.

History: C. 1953, 20A-1-404, enacted by L. 1993, ch. 1, § 20.

PART 5

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CANDIDATE VACANCIES AND VACANCIES IN ELECTED OFFICES

20A-1-501. Candidate vacancies - Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) after the close of the period for filing declarations of candidacy but before the primary:

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of becoming physically or mentally disabled as certified by a physician; or

(C) is disqualified by an election officer for improper filing or nominating procedures; or

(b) after the primary election but before the general election the party's candidate:

(i) dies;

(ii) resigns because of becoming physically or mentally disabled as certified by a physician; or

(iii) is disqualified by an election officer for improper filing or nominating procedures.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

History: C. 1953, 20A-1-501, enacted by L. 1993, ch. 1, § 21; 1994, ch. 1, § 6; 1996, ch. 79, § 30.

Link to 1999 Legislation Affecting this Section

Amendment Notes. - The 1994 amendment, effective January 27, 1994, made stylistic changes near the beginning of Subsection (1) and substituted "Title 20A, Chapter 8, Part 2, Candidate Qualifications and Declarations of Candidacy" for "Section 20-4-9" in Subsection (3).

The 1996 amendment, effective April 29, 1996, substituted "Chapter 9" for "Chapter 8" in Subsection (3).

20A-1-502. Midterm vacancies in office of United States representative or senator.

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(1) When a vacancy occurs for any reason in the office of a representative in Congress, the governor shall issue a proclamation calling an election to fill the vacancy.

(2) (a) When a vacancy occurs in the office of U.S. senator, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall appoint a person to serve as U.S. senator until the vacancy is filled by election from one of three persons nominated by the state central committee of the same political party as the prior officeholder.

History: C. 1953, 20A-1-502, enacted by L. 1993, ch. 1, § 22.

Cross-References. - Election of United States senators and representatives, Utah Const., Art. IX, Sec. 1; § 20-10-1 et seq.

20A-1-503. Midterm vacancies in the Legislature.

(1) As used in this section, "central committee" means:

(a) the state central committee, when the legislative district encompasses more than one county; and

(b) the county central committee, when the legislative district is entirely within one county.

(2) When a vacancy occurs for any reason in the office of representative in the Legislature, the governor shall fill the vacancy by:

(a) appointing the person who meets the qualifications for the office whose name was submitted by the central committee of the same political party of the prior officeholder if the process used to nominate the replacement was the standard process used by that political party to select a candidate without a primary election;

(b) appointing a person who meets the qualifications for the office from two persons whose names were submitted by the central committee of the same political party of the prior officeholder if the process used to nominate those persons was the standard process used by that political party to select candidates for the primary election ballot; or

(c) appointing a person who meets the qualifications for the office from three persons nominated by the central committee of the same political party as the prior officeholder.

(3) (a) When a vacancy occurs for any reason in the office of senator in the Legislature, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by:

(i) appointing the person who meets the qualifications for the office whose name was submitted by the central committee of the same political party of the prior officeholder if the process used to select that person was the standard process used by that political party to nominate the replacement without a primary election;

(ii) appointing a person who meets the qualifications for the office from two persons whose names were submitted by the central committee of the same political party of the prior officeholder if the process used to nominate those persons was the standard process used by that political party to select candidates for the primary election ballot; or

(iii) appointing a person who meets the qualifications for the office from three persons nominated by the central committee of the same political party as the prior officeholder.

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History: C. 1953, 20A-1-503, enacted by L. 1993, ch. 1, § 23; 1998, ch. 377, § 1.

Amendment Notes. - The 1998 amendment, effective May 4, 1998, divided Subsection (2), adding the Subsection (2)(c) designation and making a related change; added Subsections (2)(a) and (2)(b); divided Subsection (3)(b), adding the Subsection (3)(b)(iii) designation and making a related change; and added Subsections (2)(b)(i) and (2)(b)(ii).

20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, and state auditor.

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, or state auditor, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall appoint a person to hold the office until the next regular general election at which the governor stands for election.

History: C. 1953, 20A-1-504, enacted by L. 1993, ch. 1, § 24; 1996, ch. 79, § 31.

Amendment Notes. - The 1996 amendment, effective April 29, 1996, substituted "office" for "offices" in Subsection (1)(a).

20A-1-505. Judicial vacancies - Courts of record.

(1) (a) When a vacancy occurs in a court of record, the governor shall, within 30 days after receiving the list of nominees, fill the vacancy by appointing a person who meets the qualifications for the office from a list of at least three trial nominees and five appellate nominees certified to the governor by the judicial nominating commission that has authority over the vacancy.

(b) If the governor fails to fill the vacancy within 30 days, the chief justice of the Supreme Court shall, within 20 days, appoint a person who meets the qualifications for the office from the list of nominees.

(2) (a) The Senate shall:

(i) consider and decide on each judicial appointment within 60 days of the date of appointment; and

(ii) if necessary, convene itself in extraordinary session to consider a judicial appointment.

(b) If the Senate fails to approve the appointment, the office is considered vacant and a new nominating process begins.

(3) An appointment is effective upon approval of a majority of all members of the Senate.

(4) The judicial nominating commission, the governor, the chief justice, and the Senate shall nominate and select judges based solely upon consideration of their fitness for office without regard to any partisan political considerations.

History: C. 1953, 20A-1-505, enacted by L. 1993, ch. 1, § 25; 1993, ch. 159, § 1; 1994, ch.

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227, § 5.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, substituted "three trial nominees and five appellate nominees" for "three nominees" in Subsection (1)(a).

Cross-References. - Assumption of judicial office, C.J.A. Rule 3-102.

Judicial nominating commissions, Appx. A, Code of Judicial Administration.

Selection of judges, Utah Const., Art. VIII, Sec. 3.

NOTES TO DECISIONS

Election mandatory.

It is mandatory that all appointees to the Supreme Court and the district court stand for election. Monson v. Hall, 584 P.2d 833 (Utah 1978) (decided under former provisions).

COLLATERAL REFERENCES

Am. Jur. 2d. - 46 Am. Jur. 2d Judges §§ 8 to 10.

C.J.S. - 48A C.J.S. Judges §§ 12 to 14.

20A-1-506. Judicial vacancies - Courts not of record.

(1) As used in this section:

(a) "Appointing authority" means:

(i) the chair of the county commission in counties having the county commission form of county government;

(ii) the county executive in counties having the county executive-council form of government;

(iii) the chair of the city commission, city council, or town council in municipalities having:

(A) the traditional management arrangement established by Title 10, Chapter 3, Part 1; and

(B) the council-manager optional form of government defined in Section 10-3-1209; and

(iv) the mayor, in the council-mayor optional form of government defined in Section 10-3-1209;

(b) "Local legislative body" means:

(i) the county commission or county council; and

(ii) the city commission, city council, or town council.

(2) (a) If a vacancy occurs in the office of a municipal justice court judge before the completion of his term of office, the appointing authority may:

(i) fill the vacancy by appointment for the unexpired term by following the procedures and requirements for appointments in Section 78-5-134; or

(ii) contract with a justice court judge of the county, an adjacent county, or another municipality within those counties for judicial services.

(b) When the appointing authority chooses to contract under Subsection (1), it shall ensure

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that the contract is for the same term as the term of office of the judge whose services are replaced by the contract.

(c) The appointing authority shall notify the Office of the State Court Administrator in writing of the appointment, resignation, or the contractual agreement for services of a judge under this section within 30 days after filling the vacancy.

(3) (a) If a vacancy occurs in the office of a county justice court judge before the completion of that judge's term of office, the appointing authority may fill the vacancy by appointment for the unexpired term by following the procedures and requirements for appointments in Section 78-5-134.

(b) The appointing authority shall notify the Office of the State Court Administrator in writing of any appointment of a county justice court judge under this section within 30 days after the appointment is made.

(4) (a) When a vacancy occurs in the office of a justice court judge, the appointing authority shall:

(i) advertise the vacancy and solicit applications for the vacancy;

(ii) appoint the best qualified candidate to office based solely upon fitness for office;

(iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting employment of relatives in making appointments to fill the vacancy; and

(iv) submit the name of the appointee to the local legislative body.

(b) If the local legislative body does not confirm the appointment within 30 days of submission, the appointing authority may either appoint another of the applicants or reopen the vacancy by advertisement and solicitations of applications.

History: C. 1953, 20A-1-506, enacted by L. 1993, ch. 1, § 26.

20A-1-507. Midterm vacancies in the State Board of Education.

(1) If a vacancy occurs on the State Board of Education for any reason other than the expiration of a member's term, the governor, with the consent of the Senate, shall fill the vacancy by appointment of a qualified member to serve out the unexpired term.

(2) The lieutenant governor shall issue a certificate of appointment to the appointed member and certify the appointment to the board.

History: C. 1953, 20A-1-507, enacted by L. 1993, ch. 1, § 27.

20A-1-508. Midterm vacancies in county elected offices.

(1) As used in this section:

(a) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(b) "County offices" does not mean the offices of president and vice president of the United States, United States senators and representatives, members of the Utah Legislature, state constitutional officers, county attorneys, district attorneys, and judges.

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(2) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this subsection.

(b) (i) To appoint an interim replacement, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior office holder and invite that committee to submit the names of three nominees to fill the vacancy.

(ii) That county central committee shall, within 30 days, submit the names of three nominees for the interim replacement to the county legislative body.

(iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the list of nominees submitted by the party central committee.

(ii) The governor shall appoint an interim replacement from that list of nominees to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed as interim replacement under this Subsection (2) shall hold office until their successor is elected and has qualified.

(3) (a) The requirements of this subsection apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.

(b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(ii) All persons intending to become candidates for the vacant office shall:

(A) file a declaration of candidacy according to the procedures and requirements of Title 20A, Chapter 9, Part 2;

(B) if nominated as a party candidate or qualified as an independent or write-in candidate under Title 20A, Chapter 8, Political Party Formation and Procedure, run in the regular general election; and

(C) if elected, complete the unexpired term of the person who created the vacancy.

(4) (a) The requirements of this subsection apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than 50 days before the regular primary election.

(b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate must file a declaration of candidacy.

(ii) All persons intending to become candidates for the vacant offices shall, within five days after the date that the notice is made, ending at 5 p.m. on the fifth day, file a declaration of candidacy for the vacant office as required by Title 20A, Chapter 9, Part 2.

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(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk at least 35 days before the regular primary election.

(5) (a) The requirements of this subsection apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 50 days or less remain before the regular primary election but more than 50 days remain before the regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(6) (a) The requirements of this subsection apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 50 days or less remain before the next regular general election.

(b) (i) When the conditions established in Subsection (6)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party as the prior office holder and invite that committee to submit the names of three nominees to fill the vacancy.

(ii) That county central committee shall, within 30 days, submit the names of three nominees to fill the vacancy to the county legislative body.

(iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the list of nominees submitted by the party central committee.

(ii) The governor shall appoint a person to fill the vacancy from that list of nominees to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed to fill the vacancy under Subsection (6) shall hold office until their successor is elected and has qualified.

(7) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(8) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

History: C. 1953, 20A-1-508, enacted by L. 1993, ch. 228, § 4; 1994, ch. 1, § 7; 1996, ch. 79, § 32; 1997, ch. 139, § 6.

Repeals and Reenactments. - Laws 1993, ch. 228, § 4 repeals former § 20A-1-508, as enacted by

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Laws 1993, ch. 1, § 28, which related to midterm vacancies in county elected offices and became effective on January 28, 1993, and enacts the present section, effective May 3, 1993.

Amendment Notes. - The 1994 amendment, effective January 27, 1994, substituted "Title 20A, Chapter 8, Part 2" for "Section 20-4-9" in Subsections (3)(b)(ii)(A) and (4)(b)(ii) and "Title 20A, Chapter 8" for "Section 20-7-20" in Subsection (3)(b)(ii)(B).

The 1996 amendment, effective April 29, 1996, in Subsections (3)(b)(ii)(A) and (4)(b)(ii) substituted "Chapter 9" for "Chapter 8" and substituted "as the prior office" for "of the prior office" in Subsection (6)(b)(i).

The 1997 amendment, effective May 5, 1997, deleted "the county attorney" from the list of county offices in Subsection (1)(a); added "county attorneys, district attorneys" in Subsection (1)(b); added "Political Party Formation and Procedure" in Subsection (3)(b)(i)(B); added "regular primary election" three times in Subsection (4); added "regular" in Subsection (5)(b); and made stylistic changes.

20A-1-509. Definitions applicable to Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3

As used in Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3:

(1) "County clerk" means:

(a) for a single county, the county clerk of that county; and

(b) for a prosecution district, the county clerk of the most populous county within the prosecution district.

(2) "County legislative body" includes each legislative body with the power to participate in the selection of a district attorney as provided in the interlocal prosecution district agreement.

History: C. 1953, 20A-1-509, enacted by L. 1997, ch. 139, § 7.

Repeals and Reenactments. - Laws 1997, ch. 139, § 7 repeals former § 20A-1-509, as last amended by Laws 1994, ch. 21, § 5, relating to midterm vacancies in the office of county or district attorney, and enacts the present section. For present provisions, see §§ 20A-1-509.1 to 20A-1-509.3.

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this subsection apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before March 17 of the even-numbered year.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Title 20A, Chapter 9, Part 2;

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(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Title 20A, Chapter 9, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs after March 9 and before March 17, the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until ten days after the county clerk gives notice under Subsection (2)(b), but no later than March 27.

(3) (a) The requirements of this subsection apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after March 16 of the even-numbered year but more than 50 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate must file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) within five days after the date that the notice is made, ending at 5 p.m. on the fifth day, file a declaration of candidacy for the vacant office as required by Title 20A, Chapter 9, Part 2; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk at least 35 days before the regular primary election.

(4) (a) The requirements of this subsection apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 50 days or less remain before the regular primary election but more than 50 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this subsection apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 50 days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.

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(c) That county central committee shall, within 30 days of receiving notice from the county legislative body, submit to the county legislative body the names of three nominees to fill the vacancy.

(d) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.

(g) A person appointed to fill the vacancy under Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

History: C. 1953, 20A-1-509.1, enacted by L. 1997, ch. 139, § 8.

Effective Dates. - Laws 1997, ch. 139 became effective on May 5, 1997, pursuant to Utah Const., Art. VI, Sec. 25.

20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney has not responded within ten calendar days from the date that the letter was mailed, his candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, after ten calendar days from the date the letter was mailed, more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward their names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names.

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(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names, the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing him that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

(f) The governor shall appoint a person to fill the vacancy from the list within 30 days after receipt of the letter.

(4) (a) If, after ten calendar days from the date the letter was mailed, three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 days after he receives the notification.

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

History: C. 1953, 20A-1-509.2, enacted by L. 1997, ch. 139, § 9.

Effective Dates. - Laws 1997, ch. 139 became effective on May 5, 1997, pursuant to Utah Const., Art. VI, Sec. 25.

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20A-1-509.3. Procedure for making interim replacement.

(1) Until the vacancy is filled as provided in Section 20A-1-509.1 or 20A-1-509.2 and the new county attorney or district attorney has qualified, the county legislative body may appoint an interim replacement to fill the vacant office by following the procedures and requirements of this subsection.

(a) The county legislative body shall appoint a deputy county or district attorney to serve as acting county or district attorney if there are at least three deputies in the office that has the vacancy.

(b) The county legislative body may contract with any member of the Utah State Bar in good standing to be acting county or district attorney if:

(i) there are not at least three deputies in the office that has the vacancy; or

(ii) there are three or more deputies in the office but none of the deputies is willing to serve.

(2) A person appointed as interim replacement under this section shall hold office until his successor is selected and has qualified.

History: C. 1953, 20A-1-509.3, enacted by L. 1997, ch. 139, § 10.

Effective Dates. - Laws 1997, ch. 139 became effective on May 5, 1997, pursuant to Utah Const., Art. VI, Sec. 25.

20A-1-510. Midterm vacancies in municipal offices.

(1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall appoint a registered voter in the municipality to fill the unexpired term of the office vacated until the January following the next municipal election.

(b) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least two weeks before the municipal legislative body meets to fill the vacancy; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled; and

(B) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.

(c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within 30 days after the vacancy occurs, the municipal legislative body shall vote upon the names that have been submitted.

(ii) The two persons having the highest number of votes of the municipal legislative body shall appear before the municipal legislative body and the municipal legislative body shall vote again.

(iii) If neither candidate receives a majority vote of the municipal legislative body at that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

(2) (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least

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14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall comply with the notice requirements of this section.

(3) A member of a municipal legislative body may not participate in any part of the process established in this section to fill a vacancy if that member is being considered for appointment to fill the vacancy.

History: C. 1953, 20A-1-510, enacted by L. 1993, ch. 1, § 30; 1994, ch. 108, § 1; 1997, ch. 24, § 1.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, added Subsection (1)(b), redesignating former Subsection (1)(b) as Subsection (1)(c); designated the provisions of Subsection (2) as Subsection (2)(a), making related internal designation changes; and added Subsections (2)(b) and (3).

The 1997 amendment, effective February 26, 1997, divided former Subsection (1)(c)(i) into Subsections (1)(c)(i) and (ii), redesignating subsections accordingly; added "the municipal legislative body shall vote upon the names that have been submitted" at the end of Subsection (1)(c)(i); and added "and the municipal legislative body shall vote again" at the end of Subsection (1)(c)(ii).

Cross-References. - Mayoral or council vacancy of a municipality, § 10-3-302.

20A-1-511. Midterm vacancies on local school boards.

(1) (a) A local school board shall fill vacancies on the board by appointment, except as otherwise provided in Subsection (2).

(b) If the board fails to make an appointment within 30 days after a vacancy occurs, the county legislative body, or municipal legislative body in a city district, shall fill the vacancy by appointment.

(c) A member appointed and qualified under this subsection shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) Members elected under this subsection shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing a person to fill a vacancy under this section, the local school board shall:

(a) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

(b) identify, in the notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

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(ii) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.

History: C. 1953, 20A-1-511, enacted by L. 1993, ch. 1, § 31; 1994, ch. 108, § 2.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, added Subsection (3).

20A-1-512. Midterm vacancies on special district boards.

(1) (a) Whenever a vacancy occurs on any special district board for any reason, a replacement to serve out the unexpired term shall be appointed as provided in this section by:

(i) the special district board, if the person vacating the position was elected; or

(ii) the appointing authority, if the person vacating the position was appointed.

(b) Before acting to fill the vacancy, the special district board shall:

(i) give public notice of the vacancy at least two weeks before the special district board meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled; and

(B) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.

(2) If the special district board fails to appoint a person to complete an elected board member's term within 90 days, the county or municipality that created the special district shall fill the vacancy.

History: C. 1953, 20A-1-512, enacted by L. 1993, ch. 1, § 32; 1993, ch. 275, § 4; 1994, ch. 108, § 3.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, designated the provisions of Subsection (1) as Subsection (1)(a), making related internal designation changes, and added Subsection (1)(b).

PART 6
ELECTION OFFENSES - GENERALLY

20A-1-601. Bribery in elections.

(1) It is unlawful for any person, directly or indirectly, by himself or through any other person to:

(a) pay, loan, or contribute, or offer or promise to pay, loan, or contribute any money or other valuable consideration to or for any voter or to or for any other person:

(i) to induce the voter to vote or refrain from voting at any election provided by law;

(ii) to induce any voter to vote or refrain from voting at an election for any particular person or persons;

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(iii) to induce a voter to go to the polls or remain away from the polls at any election;

(iv) because a voter voted or refrained from voting for any particular person, or went to the polls or remained away from the polls; or

(v) to obtain the political support or aid of any person at an election;

(b) give, offer, or promise any office, place, or employment, or to promise or procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to:

(i) induce a voter to vote or refrain from voting at any election;

(ii) induce any voter to vote or refrain from voting at an election for any particular person or persons; or

(iii) obtain the political support or aid of any person;

(c) advance or pay, or cause to be paid, any money or other valuable thing to, or for the use of, any other person with the intent that the money or other valuable thing be used in bribery at any election provided by law; or

(d) knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money expended wholly or in part in bribery at any election.

(2) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by this section shall be punished by a fine of not more than $1,000, or by imprisonment in the state prison for not more than five years, or by both a fine and imprisonment.

History: C. 1953, 20A-1-601, enacted by L. 1993, ch. 1, § 33.

20A-1-602. Receiving bribe.

(1) It is unlawful for any person, for himself or for any other person, directly or indirectly, by himself or through any person, before, during or after any election to:

(a) receive, agree to receive, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting for any particular person or measure at any election provided by law;

(b) receive any money or other valuable thing because the person induced any other person to vote or refrain from voting or to vote or refrain from voting for any particular person or measure at an election.

(2) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by this section shall be punished by a fine of not more than $1,000, or by imprisonment in the state prison for not more than five years, or by both a fine and imprisonment.

History: C. 1953, 20A-1-602, enacted by L. 1993, ch. 1, § 34.

Cross-References. - Bribery, generally, § 76-8-101 et seq.

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Campaign contributions not prohibited by general criminal statutes, § 76-8-102.

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections § 470.

C.J.S. - 29 C.J.S. Elections § 332.

20A-1-603. Fraud, interference, disturbance - Tampering with ballots or records.

(1) It is unlawful for:

(a) any person who is not entitled to vote to fraudulently vote; and

(b) any person to:

(i) vote more than once at any one election;

(ii) knowingly hand in two or more ballots folded together;

(iii) change any ballot after it has been deposited in the ballot box;

(iv) add or attempt to add any ballot to those legally polled at any election by fraudulently introducing the ballot into the ballot box either before or after the ballots have been counted;

(v) add to or mix, or attempt to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time;

(vi) willfully detain, mutilate, or destroy any election returns;

(vii) in any manner, interfere with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(viii) engage in riotous conduct at any election or interfere in any manner with any election officer in the discharge of his duties;

(ix) induce any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with his duty or any law regulating his duty;

(x) take, carry away, conceal, remove, or destroy any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing; or

(xi) aid, counsel, provide, procure, advise, or assist any person to do any of the acts specified in this section.

(2) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established in this section shall be punished by a fine of not more than $1,000, or by imprisonment in the state prison for not more than five years, or by both a fine and imprisonment.

History: C. 1953, 20A-1-603, enacted by L. 1993, ch. 1, § 35.

20A-1-604. Destroying instruction cards, sample ballots, or election paraphernalia.

(1) It is unlawful for any person to:

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(a) willfully deface or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully deface, tear down, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by this section shall be punished by a fine of not less than $5 nor more than $100, or by imprisonment in the county jail not exceeding three months, or by both a fine and imprisonment.

History: C. 1953, 20A-1-604, enacted by L. 1993, ch. 1, § 36.

COLLATERAL REFERENCES

Am. Jur. 2d. - 26 Am. Jur. 2d Elections §§ 468, 473, 474.

C.J.S. - 29 C.J.S. Elections §§ 325, 330, 331.

20A-1-605. Mutilating certificate of nomination - Forging declination or resignation - Tampering with ballots.

(1) It is unlawful for any person to:

(a) falsely mark or willfully deface or destroy:

(i) any certificate of nomination or any part of a certificate of nomination; or

(ii) any letter of declination or resignation;

(b) file any certificate of nomination or letter of declination or resignation knowing it, or any part of it, to be falsely made;

(c) suppress any certificate of nomination, or letter of declination or resignation, or any part of a certificate of nomination or letter of declination or resignation that has been legally filed;

(d) forge any letter of declination or resignation;

(e) falsely make the official endorsement on any ballot;

(f) willfully destroy or deface any ballot;

(g) willfully delay the delivery of any ballots;

(h) examine any ballot offered or cast at the polls or found in any ballot box for any purpose other than to determine which candidate was elected; and

(i) make or place any mark or device on any ballot in order to determine the name of any person for whom the elector has voted.

(2) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by this section is guilty of a class A misdemeanor.

History: C. 1953, 20A-1-605, enacted by L. 1993, ch. 1, § 37.

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Cross-References. - Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

20A-1-606. Wagering on elections forbidden.

(1) (a) It is unlawful for any candidate, before or during any primary or election campaign to:

(i) make any bet or wager anything of pecuniary value on the result of the primary or election, or on any event or contingency relating to any pending primary or election;

(ii) become a party to any bet or wager on the result of a primary or election or on any event or contingency relating to any pending primary or election; and

(iii) provide money or any other valuable thing to be used by any other person in betting or wagering upon the results of any impending primary or election.

(b) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by Subsection (1) is guilty of a felony.

(2) (a) It is unlawful for any person to make any bet or wager anything of pecuniary value on the result of any primary or election, or on any event or contingency relating to any primary or election.

(b) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by Subsection (2) is guilty of a misdemeanor.

(3) (a) It is unlawful for any person to directly or indirectly make a bet or wager with any voter that is dependent upon the outcome of any primary or election with the intent to subject that voter to the possibility of challenge at a primary or election or to prevent the voter from voting at a primary or election.

(b) In addition to the penalties established in Section 20A-1-609, any person convicted of any of the offenses established by this Subsection (3) is guilty of a class B misdemeanor.

History: C. 1953, 20A-1-606, enacted by L. 1993, ch. 1, § 38.

Cross-References. - Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

20A-1-607. Inducing attendance at polls - Payment of workers.

(1) (a) It is unlawful for any person to pay another for any loss due to attendance at the polls or to registering.

(b) This subsection does not permit an employer to make any deduction from the usual salary or wages of any employee who takes a leave of absence as authorized under Section 20A-3-103 for the purpose of voting.

(2) (a) A person may not pay for personal services performed or to be performed on the day of a caucus, primary, convention, or election, or for any purpose connected with a caucus, primary, convention, or election that directly or indirectly affect the result of the caucus, primary, convention, or election.

(b) Subsection (2) does not prohibit the hiring of persons whose sole duty it is to act as challengers and watch the count of official ballots.

History: C. 1953, 20A-1-607, enacted by L. 1993, ch. 1, § 39.

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20A-1-608. Promises of appointment to office forbidden.

(1) In order to aid or promote his nomination or election, a person may not directly or indirectly appoint or promise to appoint any person or secure or promise to secure, or aid in securing the appointment, nomination, or election of any person to any public or private position or employment, or to any position of honor, trust, or emolument.

(2) Nothing contained in this section prevents:

(a) a candidate from stating publicly his preference for, or support of, any other candidate for any office to be voted for at the same primary or election; or

(b) a candidate for any office in which the person elected will be charged with the duty of participating in the election or nomination of any person as a candidate for any office from publicly stating or pledging his preference for, or support of, any person for that office or nomination.

History: C. 1953, 20A-1-608, enacted by L. 1993, ch. 1, § 40.

20A-1-609. Omnibus penalties.

(1) Unless another penalty is specifically provided, any person who violates any provision of this title is guilty of a class B misdemeanor.

(2) A person convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which he was elected; and

(c) receive the emoluments of the office to which he was elected.

(3) (a) Any person convicted of any offense under this title forfeits the right to vote at any election unless restored to civil rights as provided by law.

(b) Any person may challenge that person's right to vote by following the procedures and requirements of Section 20A-3-202.

History: C. 1953, 20A-1-609, enacted by L. 1993, ch. 1, § 41.

Cross-References. - Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

20A-1-610. Abetting violation of chapter - Penalty.

In addition to the penalties established in Section 20A-1-609, any person who aids, abets, or advises a violation of any provision of this title is guilty of a class B misdemeanor, unless another penalty is specifically provided.

History: C. 1953, 20A-1-610, enacted by L. 1993, ch. 1, § 42.

Cross-References. - Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

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20A-1-611. Cost of defense of action no part of campaign expense.

(1) Nothing contained in this chapter prevents any candidate from employing counsel to represent him in any action or proceeding affecting his rights as a candidate or from paying all costs and disbursements arising from that representation.

(2) Expenses paid or incurred for that representation may not be considered part of the campaign expenses of any candidate.

History: C. 1953, 20A-1-611, enacted by L. 1993, ch. 1, § 43.

PART 7
PROSECUTING AND ADJUDICATING ELECTION OFFENSES

20A-1-701. Prosecutions - Venue.

Violations of the provisions of this title concerning expenditure of money or making contributions or providing services may be prosecuted in the county where the expenditure or contribution was made, or where the services were provided, or in any county where the money was paid or distributed.

History: C. 1953, 20A-1-701, enacted by L. 1993, ch. 1, § 44.

20A-1-702. Repealed.

Repeals. - Laws 1997, ch. 296, § 21 repeals § 20A-1-702, as enacted by L. 1993, ch. 1, § 45, providing for competency as a witness of one convicted under this title, compulsion of testimony, and use immunity, effective May 5, 1997. For present immunity provisions, see Title 77, Chapter 22b.

20A-1-703. Proceedings by registered voter.

(1) Any registered voter who has information that any provisions of this title have been violated by any candidate for whom the registered voter had the right to vote, by any personal campaign committee of that candidate, by any member of that committee, or by any election official, may file a verified petition with the lieutenant governor.

(2) (a) The lieutenant governor shall gather information and determine if a special investigation is necessary.

(b) If the lieutenant governor determines that a special investigation is necessary, the lieutenant governor shall refer the information to the attorney general, who shall:

(i) bring a special proceeding to investigate and determine whether or not there has been a violation; and

(ii) appoint special counsel to conduct that proceeding on behalf of the state.

(3) If it appears from the petition or otherwise that sufficient evidence is obtainable to show

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that there is probable cause to believe that a violation has occurred, the attorney general shall:

(a) grant leave to bring the proceeding; and

(b) appoint special counsel to conduct the proceeding.

(4) (a) If leave is granted, the registered voter may, by a special proceeding brought in the district court in the name of the state upon the relation of the registered voter, investigate and determine whether or not the candidate, candidate's personal campaign committee, any member of the candidate's personal campaign committee, or any election officer has violated any provision of this title.

(b) (i) In the proceeding, the complaint shall:

(A) be served with the summons; and

(B) set forth the name of the person or persons who have allegedly violated this title and the grounds of those violations in detail.

(ii) The complaint may not be amended except by leave of the court.

(iii) The summons and complaint in the proceeding shall be filed with the court no later than five days after they are served.

(c) (i) The answer to the complaint shall be served and filed within ten days after the service of the summons and complaint.

(ii) Any allegation of new matters in the answer shall be considered controverted by the adverse party without reply, and the proceeding shall be considered at issue and stand ready for trial upon five days' notice of trial.

(d) (i) All proceedings initiated under this section have precedence over any other civil actions.

(ii) The court shall always be considered open for the trial of the issues raised in this proceeding.

(iii) The proceeding shall be tried and determined as a civil action without a jury, with the court determining all issues of fact and issues of law.

(iv) If more than one proceeding is pending or the election of more than one person is investigated and contested, the court may:

(A) order the proceedings consolidated and heard together; and

(B) equitably apportion costs and disbursements.

(e) (i) Either party may request a change of venue as provided by law in civil actions, but application for a change of venue must be made within five days after service of summons and complaint.

(ii) The judge shall decide the request for a change of venue and issue any necessary orders within three days after the application is made.

(iii) If a party fails to request a change of venue within five days of service, he has waived his right to a change of venue.

(f) (i) If judgment is in favor of the plaintiff, the relator may petition the judge to recover his taxable costs and disbursements against the person whose right to the office is contested.

(ii) The judge may not award costs to the defendant unless it appears that the proceeding was brought in bad faith.

(iii) Subject to the limitations contained in Subsection (f), the judge may decide whether or not to award costs and disbursements.

(5) Nothing in this section may be construed to prohibit any other civil or criminal actions or

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remedies against alleged violators.

(6) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

History: C. 1953, 20A-1-703, enacted by L. 1993, ch. 1, § 46; 1996, ch. 258, § 4; 1997, ch. 296, § 5.

Amendment Notes. - The 1996 amendment, effective March 15, 1996, added Subsection (2) making related redesignation changes; in Subsection (1) added "or by any election official," deleted "with a district judge of the district in which the violation had occurred" after "petition," and substituted "lieutenant governor" for "attorney general, or with the governor"; in Subsection (4)(a) added "or any election officer"; and made stylistic changes.

The 1997 amendment, effective May 5, 1997, added Subsection (6).

NOTES TO DECISIONS

Complaint.

In contest of election, complaint charging that defendant, a candidate, contributed $10 to judge of voting district for political purposes held sufficient to advise defendant as to what he had to meet and to confer jurisdiction upon court. Skewes v. Bliss, 58 Utah 51, 196 P. 850 (1921).

20A-1-704. Judgment and findings - Appeal - Criminal prosecution not affected by judgment.

(1) (a) If the court finds that the candidate whose right to any office is being investigated, or that the candidate, the candidate's personal campaign committee or any member of the candidate's personal campaign committee has violated any provision of this title in the conduct of the campaign for nomination or election, and if the candidate is not one mentioned in Subsection (2), the judge shall enter an order:

(i) declaring void the election of the candidate to that office;

(ii) ousting and excluding the candidate from office; and

(iii) declaring the office vacant.

(b) The vacancy created by that order shall be filled as provided in this chapter.

(2) (a) If a proceeding has been brought to investigate the right of a candidate for either house of the Legislature, and the court finds that the candidate, the candidate's personal campaign committee, or any member of the candidate's personal campaign committee has violated any provision of this title in the conduct of the campaign for nomination or election, the court shall:

(i) prepare and sign written findings of fact and conclusions of law relating to the violation; and

(ii) without issuing an order, transmit those findings and conclusions to the lieutenant governor.

(b) The lieutenant governor shall transmit the judge's findings and conclusions to the house of the Legislature for which the person is a candidate.

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(3) (a) A party may appeal the determination of the court in the same manner as appeals may be taken in civil actions.

(b) A judge may not issue an injunction suspending or staying the proceeding unless:

(i) application is made to the court or to the presiding judge of the court;

(ii) all parties receive notice of the application and the time for the hearing; and

(iii) the judge conducts a hearing.

(4) Any judgment or findings and conclusions issued as provided in this section may not be construed to bar or affect in any way any criminal prosecution of any candidate or other person.

History: C. 1953, 20A-1-704, enacted by L. 1993, ch. 1, § 47.

20A-1-705. Supplemental judgment after criminal conviction.

(1) (a) If any person, in a criminal action, is found guilty of any violation of this chapter while a candidate for the offices of governor, lieutenant governor, state auditor, state treasurer, or attorney general, the court, after entering the finding of guilt, shall:

(i) enter a supplemental judgment declaring that person to have forfeited the office; and

(ii) transmit a transcript of the supplemental judgment to the state auditor.

(b) Upon issuance of the order, the office is vacant and shall be filled as provided by this chapter.

(2) (a) If any person, in a similar action, is found guilty of any violation of this chapter committed while a member of the personal campaign committee of any candidate for the offices of governor, lieutenant governor, state auditor, state treasurer, or attorney general, the court before which the action is tried shall, immediately after entering the finding of guilt:

(i) enter a supplemental judgment declaring the candidate to have forfeited the office; and

(ii) transmit a transcript of the supplemental judgment to the state auditor.

(b) Upon issuance of the order, the office is vacant and shall be filled as provided by this chapter.

(3) If any person, in a criminal action, is found guilty of any violation of this chapter, committed while a candidate for the office of state senator or state representative, the court, after entering the finding of guilt, shall transmit a certificate setting forth the finding of guilt to the presiding officer of the legislative body for which the person is a candidate.

History: C. 1953, 20A-1-705, enacted by L. 1993, ch. 1, § 48.

20A-1-706. Special counsel on appeal.

(1) If either party appeals the judgment of the trial court, the district judge, the attorney general, or the governor who appointed special counsel for the trial court shall authorize that counsel, or some other person, to appear as special counsel in the appellate court in the matter.

(2) (a) The special counsel authorized by this chapter shall receive a reasonable compensation for his services.

(b) The compensation shall be audited by the lieutenant governor and paid out of the state treasury upon a voucher and upon the written statement of the officer appointing the counsel that:

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(i) the appointment has been made;

(ii) the person appointed has faithfully performed the duties imposed upon him; and

(iii) that the special counsel's bill is accurate and correct.

(c) Compensation for special counsel shall be audited and paid in the same manner as other claims against the state are audited and paid.

History: C. 1953, 20A-1-706, enacted by L. 1993, ch. 1, § 49.

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Section 53A-28 Utah Code Annotated
School Bond Guaranty Act

CHAPTER 28
UTAH SCHOOL BOND GUARANTY ACT

Compiler's Notes. - Laws 1996, ch. 73 also enacted a Chapter 28 in this title; that chapter has been renumbered as Chapter 29 by the Office of Legislative Research and General Counsel.

Severability Clauses. - Laws 1996, ch. 62, § 10 provides: "If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act is given effect without the invalid provision or application."

Effective Dates. - Laws 1996, ch. 62, § 11 provides: "This chapter takes effect on the January 1 of the year after the approval by the voters of the state of a proposition to amend the Utah Constitution Article X permitting this statute." Laws 1996, S.J.R. 6 proposed amending Utah Const., Art. X, § 5 to add a provision that the state may guarantee the debt of school districts. As required by § 5 of the resolution, the lieutenant governor submitted the amendment to the electors at the 1996 general election, and the amendment was approved and became effective January 1, 1997.

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General Provisions.

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Part 2

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53A-28-402. Unlimited ad valorem tax as pledge of full faith and credit - State tax commission duties - Property tax abated.

PART 1
GENERAL PROVISIONS

53A-28-101. Title.

This chapter shall be known as the "Utah School Bond Guaranty Act."

History: C. 1953, 53A-28-101, enacted by L. 1996, ch. 62, § 1.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

53A-28-102. Definitions.

(1) "Board" means the board of education of a school district existing now or later under the laws of the state.

(2) "Bond" means any general obligation bond or refunding bond issued after the effective date of this chapter.

(3) "Default avoidance program" means the school bond guaranty program established by this chapter.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a board payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Paying agent" means the corporate paying agent selected by the board for a bond issue who is:

(a) duly qualified; and

(b) acceptable to the state treasurer.

(6) "Permanent school fund" means the state school fund described in the Utah Constitution, Article X, Section 5(1).

(7) "Refunding bond" means any general obligation bond issued by a board for the purpose of refunding its outstanding general obligation bonds.

(8) "School district" means any school district existing now or later under the laws of the state.

History: C. 1953, 53A-28-102, enacted by L. 1996, ch. 62, § 2.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

PART 2

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STATE'S GUARANTEE - MONITORING OF FINANCIAL SOLVENCY

53A-28-201. Contract with bondholders - Full faith and credit of state is pledged - Limitation as to certain refunded bonds.

(1) (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding Subsection (1)(a), nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each board may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.

(3) (a) Any bond guaranteed under this chapter that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.

(b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

(4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

History: C. 1953, 53A-28-201, enacted by L. 1996, ch. 62, § 3.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

53A-28-202. Program eligibility - Option to forego guaranty.

(1) (a) Any board may request that the state treasurer issue a certificate evidencing eligibility

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for the state's guaranty under this chapter.

(b) After reviewing the request, if the state treasurer determines that the board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting board.

(c) (i) The board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the certificate, without making further inquiry of the state treasurer during that year.

(ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the school board is ineligible.

(2) Any board that chooses to forego the benefits of the guaranty provided by this chapter for a particular issue of bonds may do so by not referring to this chapter on the face of its bonds.

(3) Any board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this chapter may not issue any additional bonds guaranteed by this act until:

(a) all payment obligations of the board to the state under the default avoidance program are satisfied; and

(b) the state treasurer and the state superintendent of public instruction each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the board is fiscally solvent.

(4) Bonds not guaranteed by this chapter are not included in the definition of "bonds" in Section 53A-28-201 as used generally in this chapter and are not subject to the requirements of and do not receive the benefits of this chapter.

History: C. 1953, 53A-28-202, enacted by L. 1996, ch. 62, § 4.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

53A-28-203. State superintendent to monitor fiscal solvency of school districts - Duties of state treasurer and attorney general.

(1) The state superintendent of public instruction shall:

(a) monitor the financial affairs and condition of each board in the state to evaluate each school board's financial solvency;

(b) at least annually, report his conclusions to the governor, the Legislature, and the state treasurer; and

(c) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) (a) After examining the report of the state superintendent of public instruction required by this subsection, the state treasurer shall determine whether or not the financial affairs and condition of a board are such that it would be imprudent for the state to guarantee the bonds of that board.

(b) If the state treasurer determines that the state should not guarantee the bonds of that board, the state treasurer shall:

(i) prepare a determination of ineligibility; and

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(ii) keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a board from the status of ineligibility when a subsequent report of the state superintendent of public instruction or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that board.

(3) Nothing in this section affects the state's guaranty of bonds of a board issued:

(a) before determination of ineligibility;

(b) after the eligibility of the board is restored; or

(c) under a certificate of eligibility issued under Section 53A-28-202.

History: C. 1953, 53A-28-203, enacted by L. 1996, ch. 62, § 5.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

PART 3
GUARANTY OPERATION

53A-28-301. Business administrator duties - Paying agent to provide notice - State treasurer to execute transfer to paying agents - Effect of transfer.

(1) (a) The business administrator of each board with outstanding, unpaid bonds shall transfer monies sufficient for the scheduled debt service payment to its paying agent at least 15 days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the business administrator, invest the monies at the risk and for the benefit of the board until the payment date.

(c) A business administrator who is unable to transfer the scheduled debt service payment to the paying agent 15 days before the payment date shall immediately notify the paying agent and the state treasurer by:

(i) telephone;

(ii) a writing sent by facsimile transmission; and

(iii) a writing sent by first-class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by Subsection (1), the paying agent shall notify the state treasurer of that failure in writing at least ten days before the scheduled debt service payment date by:

(a) telephone;

(b) a writing sent by facsimile transmission; and

(c) a writing sent by first-class United States mail.

(3) (a) If sufficient monies to pay the scheduled debt service payment have not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient monies to the paying agent to make the scheduled debt service payment.

(b) The payment by the treasurer:

(i) discharges the obligation of the issuing board to its bondholders for the payment; and

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(ii) transfers the rights represented by the general obligation of the board from the bondholders to the state.

(c) The board shall pay the transferred obligation to the state as provided in this chapter.

History: C. 1953, 53A-28-301, enacted by L. 1996, ch. 62, § 6.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

53A-28-302. State financial assistance intercept mechanism - State treasurer duties - Interest and penalty provisions.

(1) (a) If one or more payments on bonds are made by the state treasurer as provided in Section 53A-28-301, the state treasurer shall:

(i) immediately intercept any payments from the Uniform School Fund or from any other source of operating monies provided by the state to the board that issued the bonds that would otherwise be paid to the board by the state; and

(ii) apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the board to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the board or to any person or entity to replace any monies intercepted under authority of Subsection (1).

(2) The board that issued bonds for which the state has made all or part of a debt service payment shall:

(a) reimburse all monies drawn by the state treasurer on its behalf;

(b) pay interest to the state on all monies paid by the state from the date the monies were drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus 1%; and

(c) pay all penalties required by this chapter.

(3) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the board on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payment on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the board to make payment on its bonds in a timely manner, impose on the board a penalty of not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(4) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one year from the state's payment of a board's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the board to compel it to:

(A) levy and provide property tax revenues to pay debt service on its bonds when due as required by the Utah Municipal Bond Act; and

(B) meet its repayment obligations to the state.

(ii) In pursuing its rights under Subsection (4)(a), the state shall have the same substantive and

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procedural rights under Title 11, Chapter 14, Utah Municipal Bond Act, as would a holder of the bonds of a board.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The board shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.

(5) (a) Except as provided in Subsection (5)(c), any board whose operating funds were intercepted under this section may replace those funds from other board monies or from ad valorem property taxes, subject to the limitations provided in this subsection.

(b) A board may use ad valorem property taxes or other monies to replace intercepted funds only if the ad valorem property taxes or other monies were derived from:

(i) taxes originally levied to make the payment but which were not timely received by the board;

(ii) taxes from a special levy made to make the missed payment or to replace the intercepted monies;

(iii) monies transferred from the capital outlay fund of the board or the undistributed reserve, if any, of the board; or

(iv) any other source of money on hand and legally available.

(c) Notwithstanding the provisions of Subsections (5)(a) and (b), a board may not replace operating funds intercepted by the state with monies collected and held to make payments on bonds if that replacement would divert monies from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

History: C. 1953, 53A-28-302, enacted by L. 1996, ch. 62, § 7.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

PART 4
MECHANISMS FOR FINANCING THE STATE'S GUARANTY

53A-28-401. Backup liquidity arrangements - Issuance of notes.

(1) (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a board, sufficient monies of the state are not on hand and available for that purpose, the state treasurer may:

(i) seek a loan from the Permanent School Fund sufficient to make the required payment; or

(ii) issue state debt as provided in Subsection (2).

(b) Nothing in this Subsection (1) requires the Permanent School Fund to lend monies to the state treasurer.

(2) (a) The state treasurer may issue state debt in the form of general obligation notes to meet its obligations under this chapter.

(b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of

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the notes, rounded up to the nearest natural multiple of $5,000.

(c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.

(d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of $5,000.

(e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.

(3) (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:

(i) prepare a written plan of financing; and

(ii) file it with the governor.

(b) The plan of financing shall provide for:

(i) the terms and conditions under which the notes will be issued, sold, and delivered;

(ii) the taxes or revenues to be anticipated;

(iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;

(iv) the sources of payment of the notes;

(v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and

(vi) all other details relating to the issuance, sale, and delivery of the notes.

(d) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:

(i) the taxes authorized by Section 53A-28-402;

(ii) the intercepted revenues authorized by Section 53A-28-302;

(iii) the proceeds of refunding notes; or

(iv) any combination of Subsections (i), (ii), and (iii).

(e) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.

(f) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.

(g) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.

(h) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.

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(ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.

(i) Immediately upon the completion of any sale of notes, the state treasurer shall:

(i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and

(ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

History: C. 1953, 53A-28-401, enacted by L. 1996, ch. 62, § 8.

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

53A-28-402. Unlimited ad valorem tax as pledge of full faith and credit - State tax commission duties - Property tax abated.

(1) (a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay all principal of and interest on the general obligation notes as they become due.

(b) If monies expected to be intercepted under Section 53A-28-302 are expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or if it is necessary for the state treasurer to borrow as provided in Section 53A-28-401 and amounts to be intercepted under Section 53A-28-302 are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(c) After receipt of that certified notice from the state treasurer, the state tax commission shall:

(i) immediately fix the tax rate necessary and levy direct ad valorem property tax on all real and personal property in the state subject to state taxation sufficient to provide monies in the amount of the deficiency stated in the notice; and

(ii) require that the tax be collected and remitted as soon as may be in the ordinary course of ad valorem tax levy and collection.

(2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the property tax for this purpose is abated.

History: C. 1953, 53A-28-402, enacted by L. 1996, ch. 62, § 9.

Severability Clauses. - Section 10 of Laws 1996, ch. 62 provided: "If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act is given effect without the invalid provision or application."

Effective Dates. - Laws 1996, ch. 62, § 11 makes the act effective on January 1, 1997.

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Section 53A-20 Utah Code Annotated
School Construction

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CHAPTER 20
SCHOOL CONSTRUCTION

Section
53A-20-100.5. Prohibition of school impact fees.
53A-20-101. Construction and alteration of schools and plants - Advertising for bids - Payment and performance bonds - Contracts - Bidding limitations on local school boards - Interest of local school board members.
53A-20-101.5. Restrictions on local school district procurement of architect-engineer services.
53A-20-102. Superintendent to approve school building project plans - Conditions for approval.
53A-20-103. Planning, design, and construction of public school buildings - Duties of State Board of Education.
53A-20-104. Enforcement of chapter by state superintendent - Employment of personnel - Certificate of occupancy.
53A-20-104.5. School building construction and inspection manual - Annual construction and inspection conference - Verification of school construction inspections.
53A-20-105. Licensed architect to prepare plans.
53A-20-106. Power of board regarding expected federal aid to build schools.
53A-20-107. Repealed.
53A-20-108. Notification to local government of intent to purchase school site or construction of school building - Negotiation of fees - Confidentiality.

53A-20-100.5. Prohibition of school impact fees.

(1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.

(2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.

(3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

History: C. 1953, 53A-20-100.5, enacted by L. 1995, ch. 283, § 1.

Compiler's Notes. - Laws 1995, ch. 283, § 2 directs the Revenue and Taxation Interim Committee to study school impact fees during the 1995 interim and make a recommendation to the 1996 Legislature.

Laws 1995, ch. 283, which enacted this section, provides in § 4 that S.B. 95 would supersede ch. 283 if it passed. Senate Bill 95 did pass at the 1995 session but was vetoed by the governor.

Effective Dates. - Laws 1995, ch. 283, § 3 makes the act effective on March 20, 1995.

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53A-20-101. Construction and alteration of schools and plants - Advertising for bids - Payment and performance bonds - Contracts - Bidding limitations on local school boards - Interest of local school board members.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds $80,000, a local school board shall advertise for bids on the project at least ten days before the bid due date.

(b) The board shall have the advertisement published in a newspaper having general circulation throughout the state and in appropriate construction trade publications that offer free listings.

(c) A similar advertisement is required in a newspaper published or having general circulation in any city or county that would be affected by the proposed project.

(d) The advertisement shall:

(i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;

(ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and

(iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.

(3) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.

(4) (a) The check or bond required under Subsection (2)(d) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

(5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63-56-38.

(6) (a) A local school board may require in the proposed contract that at least 10% of the contract price be withheld until the project is completed and accepted by the board.

(b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the board.

(7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds $80,000.

(b) The board may use its resources if no satisfactory bids are received under this section.

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(8) If the local school board determines in accordance with Section 63-56-36 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds $80,000, it shall select the construction manager/general contractor using one of the source selection methods provided for in Sections 63-56-20 through 63-56-36.

(9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

History: C. 1953, 53A-20-101, enacted by L. 1988, ch. 2, § 254; 1994, ch. 73, § 1; 1998, ch. 51, § 1; 2000, ch. 86, § 38; 2000, ch. 123, § 1.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, added letter designations throughout the section, making related internal designation and stylistic changes; substituted "$60,000" for "$30,000" in Subsections (1)(a) and (6)(a); and redesignated former Subsection (3) as Subsections (2)(c) to (e), renumbering former Subsections (4) to (6) and the first two sentences of Subsection (7) as Subsections (3) to (6), respectively, and adding a new Subsection (7) designation.

The 1998 amendment, effective July 1, 1998, substituted "$80,000" for "$60,000" in Subsections (1)(a) and (6)(a).

The 2000 amendment by ch. 86, effective May 1, 2000, added Subsection (1) and made related changes.

The 2000 amendment by ch. 123, effective May 1, 2000, added Subsection (7) (Subsection (8) in the reconciled version) and made related changes.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

NOTES TO DECISIONS

Analysis

Bond requirement.
- Presumptions.
Injunction.
Installation.
Purpose of requiring certified check.

Bond requirement.

- Presumptions.

There is a presumption that the bond required of the contractor was furnished by him in accordance with its provisions. Tooele Bldg. Ass'n v. Tooele High Sch. Dist. No. 1, 43 Utah 362, 134 P. 894 (1913).

Injunction.

A taxpayer may maintain a suit to restrain board of education from carrying out an alleged illegal building contract. Tooele Bldg. Ass'n v. Tooele High Sch. Dist. No. 1, 43 Utah 362, 134 P. 894 (1913).

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Installation.

Board of education had power, under separate statute providing that it might do all things needful for maintenance, prosperity and success of schools, to use its own maintenance employees to install sprinkling system in light of evidence that at the time the school was constructed, district was short of money, that district had advertised for bids for materials only and that installation of sprinkling system was not incidental to construction of school; fact that sprinkling system was installed without advertising for bids was inconsequential. Utah Plumbing & Heating Contractors Ass'n v. Board of Educ., 19 Utah 2d 203, 429 P.2d 49 (1967) (decided under prior law).

Purpose of requiring certified check.

The requirement that a certified check accompany bids is to assure the making of the contract and the giving of the bond. If a contract is in fact made and a bond given, it is immaterial that the certified check was not exacted. Tooele Bldg. Ass'n v. Tooele High Sch. Dist. No. 1, 43 Utah 362, 134 P. 894 (1913).

COLLATERAL REFERENCES

Am. Jur. 2d. - 68 Am. Jur. 2d Schools §§ 22, 75.

C.J.S. - 78 C.J.S. Schools and School Districts §§ 400, 405, 410 to 414, 417 to 419.

A.L.R. - Public contracts: authority of state or its subdivision to reject all bids, 52 A.L.R.4th 186.

Public contracts: low bidder's monetary relief against state or local agency for nonaward of contract, 65 A.L.R.4th 93.

53A-20-101.5. Restrictions on local school district procurement of architect-engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and

(b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

History: C. 1953, 53A-20-101.5, enacted by L. 2000, ch. 21, § 4.

Effective Dates. - Laws 2000, ch. 21 became effective on May 1, 2000, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20-102. Superintendent to approve school building project plans - Conditions for

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approval.

(1) If the total annual accumulative building project costs for any contract for construction or alteration of a school building exceed $100,000, the superintendent of public instruction or the superintendent's designee must approve and endorse the plans and specifications prior to the commencement of construction or alteration.

(2) Approval must be given if it is determined that:

(a) the project is necessary to meet program requirements, ensure safety, contain costs, correct existing or reasonably anticipated overcrowding, or resolve some other substantial problem;

(b) the plans and specifications provide for functional utility, economy, and a reasonable balance between initial and long-term costs;

(c) the plans and specifications comply with the Uniform Building Code, including any modifications or additions adopted by the State Board of Education, with the approval of the state fire marshal, and the State Building Board;

(d) the architect for the project has certified that the plans and specifications comply with all standards and building code requirements imposed under this chapter;

(e) if the estimated building project cost exceeds $300,000, the school district has made value engineering reviews of the plans and specifications; and

(f) the district has complied with the requirements of Section 10-9-106 or 17-27-105 and Section 53A-20-108.

(3) (a) A district may submit project plans and specifications for approval by the state superintendent under this section even though the costs do not exceed the requirements of Subsection (1).

(b) If a district chooses to proceed without state superintendent approval on a project exempt from Subsection (1), the district superintendent shall ensure that the requirements of Subsections (2)(c) and (f) are met.

History: C. 1953, 53A-20-102, enacted by L. 1988, ch. 2, § 255; 1988, ch. 142, § 1; 1997, ch. 10, § 71.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-455.

Amendment Notes. - The 1997 amendment, effective May 5, 1997, updated the references in Subsection (2)(f).

Uniform Building Code. - See § 58-56-4 et seq.

Cross-References. - State Building Board, § 63A-5-101 et seq.

State superintendent, generally, § 53A-1-301.

NOTES TO DECISIONS

Advertising for bids.

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School board may advertise for bids without having its plans and specifications approved by state superintendent, since, although it would be better practice to obtain such approval before bids are received, this section does not require such approval as a condition precedent to advertising for bids. Hales v. Board of Educ., 81 Utah 404, 181 P.2d 899 (1933) (decided under prior law).

COLLATERAL REFERENCES

Am. Jur. 2d. - 68 Am. Jur. 2d Schools § 75.

C.J.S. - 78 C.J.S. Schools and School Districts § 407.

53A-20-103. Planning, design, and construction of public school buildings - Duties of State Board of Education.

The State Board of Education has the following duties:

(1) It shall adopt codes to govern the preparation of plans and specifications for public school buildings. The codes shall include minimum standards for:

(a) construction, heating, ventilation, sanitation, lighting, plumbing, structural safety, protection from fire, panic, and other dangers;

(b) promotion of the safety, health, and comfort of the occupants; and

(c) providing functional adaptability including suitable facilities for handicapped;

(2) It shall require local school boards to maintain a current inventory of school plant facilities in conformance with rules established by the board.

(3) It shall establish planning procedures for school districts to determine the need for school plant facilities. The procedures shall include definitions of methods, criteria, and other pertinent information necessary to determine the type, size, location, and cost of school plant facilities eligible for state financial participation.

(4) It shall require local school boards to prepare and maintain surveys of school plant capital outlay needs. The surveys shall include immediate and long-range school plant capital outlay needs in accordance with planning procedures established by the state board and space utilization studies, enrollment projections, district and attendance area organization, class size, conditions of present facilities, financial structure of the district, and other necessary information.

(5) It shall prepare a guide for use by school districts in formulating educational specifications for individual building projects.

(6) It shall recommend minimum requirements for contracts and agreements between architects and engineers and local school boards. As a condition of the contract or agreement, the state board shall require the use of independent licensed consulting engineers for engineering design work.

(7) It shall recommend minimum requirements for advertising, bidding, and contractual procedures for school plant construction.

(8) It shall provide school districts with findings regarding school designs, including flexibility of design and modular planning, new methods of construction, and new material.

(9) It shall prepare an annual school plant capital outlay report of all school districts, including tabulations of facilities available, number and size of projects completed and under construction,

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and additional facilities required.

History: C. 1953, 53A-20-103, enacted by L. 1988, ch. 2, § 256.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-454.

53A-20-104. Enforcement of chapter by state superintendent - Employment of personnel - Certificate of occupancy.

(1) The state superintendent of public instruction shall enforce this chapter.

(2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this chapter;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this chapter.

(3) (a) A local school board shall file certificates of occupancy with the local governmental entity's building official and the State Office of Education for the purpose of advising those entities that the school district has complied with the inspection provisions of this chapter.

(b) For purposes of Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of occupancy" means standard inspection forms developed by the state superintendent in consultation with local school boards to verify that inspections by qualified inspectors have occurred.

History: C. 1953, 53A-20-104, enacted by L. 1988, ch. 2, § 257; 1988, ch. 142, § 2; 1999, ch. 149, § 3.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-455, R277-471.

Amendment Notes. - The 1999 amendment, effective May 3, 1999, substituted "verify the inspection of" for "inspect" in Subsection (2)(b); redesignated Subsection (3) as (3)(a); in Subsection (3)(a) substituted "A local school board shall file certificates of occupancy" for "Certificates of inspections shall be filed," inserted "and the State Office of Education," and made one stylistic change; and added Subsection (3)(b).

Cross-References. - County planning commission, § 17-27.

Fire marshal, § 53-7-103.

Municipal building authority, § 17A-3-901 et seq.

State Building Board, § 63A-5-101 et seq.

53A-20-104.5. School building construction and inspection manual - Annual

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construction and inspection conference - Verification of school construction inspections.

(1) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(2) (a) The manual shall include current legal requirements and information on school building construction and inspections.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

(i) using properly certified building inspectors;

(ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) (a) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district.

(b) The board shall make a report on its implementation of the process to the Education Interim Committee prior to the 2000 Legislative General Session.

History: C. 1953, 53A-20-104.5, enacted by L. 1999, ch. 150, § 1.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-471.

Effective Dates. - Laws 1999, ch. 150 became effective on May 3, 1999, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20-105. Licensed architect to prepare plans.

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

History: C. 1953, 53A-20-105, enacted by L. 1988, ch. 2, § 258.

Cross-References. - Licensed architects, Title 58, Chapter 3a.

53A-20-106. Power of board regarding expected federal aid to build schools.

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For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and facilities, the State Board of Education, with the approval of the governor, may do the following:

(1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.

(2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.

(3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

History: C. 1953, 53A-20-106, enacted by L. 1988, ch. 2, § 259.

53A-20-107. Repealed.

Repeals. - Laws 1991, ch. 235, § 109 repeals § 53A-20-107, as enacted by Laws 1988, ch. 142, § 3, making school districts subject to planning and zoning requirements, effective July 1, 1992. For comparable provisions, see §§ 10-9-106 and 17-27-105.

53A-20-108. Notification to local government of intent to purchase school site or construction of school building - Negotiation of fees - Confidentiality.

(1) A school district shall notify the affected local governmental entity without delay prior to the purchase of a school site or construction of a school building of its intent to purchase or construct.

(2) Representatives of the local governmental entity and the school district shall meet as soon as possible after the purchase of a school site to discuss concerns that each may have, including potential community impacts, and to negotiate any fees that might be charged by the local governmental entity in connection with a building project.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district, a local governmental entity may not disclose information obtained from a school district regarding the district's consideration of, or intent to, purchase a school site or construct a school building, without first obtaining the consent of the district.

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History: C. 1953, 53A-20-108, enacted by L. 1988, ch. 142, § 4; 1990, ch. 78, § 37.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-455.

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bonded indebtedness - Agreements and covenants by the board regarding bonds - Enforcement by court action.

(1) (a) The bonds issued under this chapter are not an indebtedness of the state, of the institution for which they are issued, or of the board.

(b) They are special obligations payable solely from the revenues derived from the operation of the building and student building fees, land grant interest, net profits from proprietary activities, and any other legally available sources pledged as provided in Sections 53A-20a-103 and 53A-20a-113.

(2) The board shall pledge all or any part of the revenues to the payment of principal of and interest on the bonds.

(3) In order to secure the prompt payment of principal and interest and the proper application of the revenues pledged, the board may, by appropriate provisions in the resolution authorizing the bonds, do the following:

(a) covenant as to the use and disposition of the proceeds of the sale of the bonds;

(b) covenant as to the operation of the project and the collection and disposition of the revenues derived from the operation;

(c) collect student building fees, as appropriate, from students and pledge the fees to the payment of building bonds;

(d) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;

(e) covenant and agree to carry insurance on the project, and its use and occupancy, and provide that the cost of any insurance is part of the expense of operating the project;

(f) vest in a trustee:

(i) the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of the bonds issued under this chapter, and to hold, apply, and dispose of the income and revenue; and

(ii) the right to:

(A) enforce any covenant made to secure the bonds;

(B) execute and deliver a trust agreement which sets forth the powers and duties and the remedies available to the trustee and limits the trustee's liabilities; and

(C) prescribe the terms and conditions upon which the trustee or the holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all covenants and resort to any appropriate remedies;

(g) (i) fix rents, charges, and fees, including student building fees, to be imposed in connection with and for the use of the project, which are:

(A) income and revenues derived from the operation of the project; and

(B) expressly required to be fully sufficient either by themselves or with land grant interest and net profits from proprietary activities, or from other legally available sources to assure the prompt payment of principal of and interest on the bonds as each becomes due; and

(ii) make and enforce rules and regulations with reference to the use of the project and with reference to requiring any class or classes of students to use the project as desirable for the welfare of the institution and its students or for the accomplishment of the purposes of this chapter;

(h) covenant to maintain a maximum percentage of occupancy of the project;

(i) covenant against the issuance of any other obligations payable from the revenues to be derived from the project, unless subordinated;

(j) make provision for refunding;

(k) covenant as to the use and disposition of legally available sources of revenues, and pledge those sources of revenues to the payment of bonds issued under this chapter;

(l) make other covenants considered necessary or advisable to effect the purposes of this chapter; and

(m) delegate to the chairman or other board member the authority:

(i) to approve any changes with respect to interest rate, price, amount, redemption features, and other terms of the bonds as are within reasonable parameters set forth in the resolution; and

(ii) to approve and execute all documents relating to the issuance of the bonds.

(4) (a) The agreements and covenants entered into by the board under this section are binding in all respects upon the board and its officials, agents, and employees, and upon its successors.

(b) They are enforceable by appropriate action or suit at law or in equity brought by any holder or holders of bonds issued under this chapter.

History: C. 1953, 53A-20a-104, enacted by L. 1993, ch. 273, § 4.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-105. Agreements with federal government for funds.

The board may enter into an agreement with the federal government in order to obtain funds for the following purposes:

(1) to supplement bond proceeds used to pay for the projects referred to in Section 53A-20a-103; and

(2) to supplement income and revenues which, under this chapter, are used to pay debt service on bonds issued under this chapter.

History: C. 1953, 53A-20a-105, enacted by L. 1993, ch. 273, § 5.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-106. Deposit of bond proceeds - State Building Board responsibilities - Approval of Division of Facilities Construction and Management.

(1) The board's treasurer or other fiscal officer, with the approval of the state treasurer, shall deposit the proceeds from the sale of bonds under this chapter into a special construction trust fund account established in compliance with the State Money Management Act.

(2) The proceeds are credited to the board on behalf of the institution for which the bonds were issued.

(3) The proceeds are kept in a separate fund and used solely for the purpose for which they

were authorized by the board.

(4) The State Building Board shall make all contracts and execute all instruments which it considers necessary to provide for the projects referred to in Section 53A-20a-103.

(5) The proceeds in the special construction trust fund account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

History: C. 1953, 53A-20a-106, enacted by L. 1993, ch. 273, § 6; 1997, ch. 10, § 72.

Amendment Notes. - The 1997 amendment, effective May 5, 1997, substituted "53A-20a-103" for "53A-28-103" in Subsection (4).

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

Cross-References. - State Building Board, § 63A-5-101 et seq.

State Money Management Act, Title 51, Chapter 7.

53A-20a-107. Disposition and use of income from operation of buildings - Payment of principal and interest on bonds.

(1) Except for the revenues paid directly to a trustee under Section 53A-20a-104, all income and revenues from the operation of the projects under this chapter shall be deposited as collected in a fund established in compliance with the State Money Management Act of 1974.

(2) (a) These moneys are for the payment of the principal and interest on the bonds authorized under this chapter.

(b) They shall also be used, to the extent provided in the resolution authorizing the bonds, to pay for the cost of maintaining and operating the project and to establish reserves for that purpose.

(3) The board's treasurer or other designated fiscal officer shall, not less than 15 days prior to the date interest and principal payments are due, transmit to the paying agent sufficient money from the fund to pay the obligation.

History: C. 1953, 53A-20a-107, enacted by L. 1993, ch. 273, § 7.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

Cross-References. - State Money Management Act, Title 51, Chapter 7.

53A-20a-108. Examination and certification of bonds by attorney general - Recital of certification - Incontestability of bonds.

(1) The resolutions and proceedings authorizing the issuance and confirming sale of bonds under this chapter shall be submitted to the attorney general for examination.

(2) When the resolutions and proceedings have been examined and the bonds certified as legal obligations by the attorney general, the bonds are incontestable in any court in the state unless suit is brought within 30 days from the date of the approval.

(3) A bond authorized under this section shall contain a recital on its face in substantially the following form: "This bond is one of a series of bonds which were certified as legal obligations by the attorney general of the state of Utah on . . . ."

(4) Bonds authorized, issued, and sold under resolutions and proceedings approved by the attorney general are prima facie valid and binding obligations according to their terms.

(5) The only defense which may be offered in any suit instituted after the 30-day period has expired is forgery, fraud, or violation of the constitution.

History: C. 1953, 53A-20a-108, enacted by L. 1993, ch. 273, § 8.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-109. Investment in bonds by private and public entities - Approval as collateral security.

(1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest its capital and surplus in bonds issued under this chapter.

(2) The officers having charge of a sinking fund or any county, city, town, township, or school district may invest the sinking fund in bonds issued under this chapter.

(3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

History: C. 1953, 53A-20a-109, enacted by L. 1993, ch. 273, § 9.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-110. Financing project by contract or lease agreement instead of by bond issue - Authority of board - Term of lease - Terms of agreement - Board covenants.

(1) Whenever the board, by resolution, finds and declares it preferable to acquire a project under this chapter by purchase or lease of the facilities constituting the project under an agreement which provides the consideration for the purchase or lease to be paid in installments during a period not exceeding 40 years, rather than through the issuance of revenue bonds by the board in the manner provided in this chapter, it may do so upon compliance with this section.

(2) The board may lease any portion of the campus of the institution necessary as a site for a project which the board is authorized to acquire, to any person, for a term not exceeding 40 years.

(3) The agreement authorized to be entered into by the board shall provide that the person shall construct, improve, remodel, add to, or extend a project of the type and construction described in the agreement on the part of the part of the campus to be leased to the person, or on

any real property as may be acquired for that purpose by the person.

(4) The agreement shall further provide for the leasing of the project, including necessary equipment, furnishings, and land, from the person to the board executing the agreement, for a period not exceeding 40 years.

(5) Prior to the execution of the agreement, the person proposing to lease the project, including the necessary equipment, furnishings, and land, to the board shall submit to the board all plans, specifications, and estimates for the project.

(6) The plans, specifications, and estimates shall be approved by resolution of the board prior to the execution of the agreement.

(7) The board may, by appropriate provisions in the agreement:

(a) covenant as to the use which will be made of the project;

(b) covenant as to the operation, maintenance, and supervision of the project;

(c) covenant to collect fees and charges from all students and other persons availing themselves of the use of the accommodations and facilities of the project;

(d) covenant to levy and collect student building fees, where appropriate, from students enrolled at the institution for the use and availability of the project;

(e) covenant as to the collection, use, and disposition of the proceeds arising from the collection of all the revenues, fees, and charges;

(f) covenant to impose and collect fees and charges in amounts adequate to pay all costs incurred in maintaining and operating the project and to pay the amortization of the acquisition cost of the project, including necessary equipment and furnishings, and interest on the unpaid part of the acquisition cost, whether represented by rental installments or otherwise;

(g) covenant to pledge all revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project to the payment of the rental installments provided for under the terms of the contract or lease agreement;

(h) covenant as to the rights, liabilities, powers, and duties arising from the breach of any covenant or agreement contained in the agreement;

(i) covenant and agree to carry any insurance on the project, and its use and occupancy, as the board considers desirable, and to provide that the cost of the insurance shall be included as a part of the cost of operating the project;

(j) covenant to make and enforce parietal rules and regulations with reference to the use of the facilities comprising the project, or any part of the project, and with reference to requiring any class of students to use the project, or any part of the project, as the board determines desirable for the institution; and

(k) covenant against the pledging of the revenues, fees, and charges, including student building fees, arising from the ownership and operation of the project for any purpose other than the payment of the rental installments required to be paid under the agreement, or against the issuance of any obligations payable therefrom, unless the pledge or obligations are made subordinate to the agreement. Nothing in this section prevents the board from providing conditions and terms under which pledges may be made and obligations issued on a parity with the pledge of revenues, fees, and charges under the agreement.

(8) The agreement shall provide that the board is not obligated to pay the rental installments or amortization of the acquisition cost of the project, and interest on the unpaid part of the acquisition cost, from any source other than the revenues, fees, and charges arising from the

ownership and operation of the project, including student building fees levied for the use and availability of the facilities of the project.

(9) Each agreement shall provide that the rental installments, or amortization of the acquisition cost of the project, including necessary equipment, furnishings, and land, and interest on the unpaid part of the acquisition cost, are not an obligation of the state.

(10) The agreement shall provide that when the amortized acquisition cost, as represented by the rental installments, has been paid in full and when all obligations, if any, issued by the person to finance the cost of the acquisition of the project have been paid in full as to both principal and interest, the agreement terminates and title to the project, including the land upon which the project is situated, and all equipment and furnishings, vests in the board.

(11) The agreement may provide that the board may purchase the project, including the land upon which the project is situated, and all equipment and furnishings, which is subject to the agreement upon terms wherein rental installments previously made, or a portion of them, are deducted from the cost of acquisition of the project, including the land upon which the project is situated, and all equipment and furnishings, as provided for in the agreement.

(12) (a) The board may furnish without charge heat, light, water, power, and similar facilities for any project leased by the board for operation by the board under this section.

(b) All projects acquired and constructed under this section are exempt from taxation.

(13) The agreement may provide that the board may lease the project, including the land upon which the project is situated, and all equipment and furnishings, to any person for a term not exceeding 40 years for operation by any person.

(14) (a) A lease may not be entered into unless the rental to be paid to the board by the person is sufficient to satisfy the rental to be paid by the board to the person from which the project was originally leased.

(b) In no event may the rental paid to the board be less than the fair rental value of the property leased.

History: C. 1953, 53A-20a-110, enacted by L. 1993, ch. 273, § 10.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-111. Student building fees.

(1) The board issuing bonds under this chapter may impose and collect student building fees from students in attendance at the institution in behalf of which the bonds are issued, where appropriate.

(2) The board may also pledge the fees in the same manner provided for the pledging of other revenues of the board or institution under this chapter.

History: C. 1953, 53A-20a-111, enacted by L. 1993, ch. 273, § 11.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-112. Refunding bonds - Issuance - Proceeds.

(1) Bonds may be issued under the terms and provisions of Title 11, Chapter 27, Utah Refunding Bond Act, for the purpose of refunding any bonds previously issued under authority of this chapter.

(2) (a) These refunding bonds shall have such details, bear such rate of interest, and be otherwise issued and secured as provided by the board authorizing the issuance of the bonds and as otherwise provided in this chapter and in Title 11, Chapter 27, Utah Refunding Bond Act.

(b) The changes in the security and revenues pledged to the payment of the bonds may be made by the board as may be provided by it in the proceedings authorizing the bonds, but in no event shall the refunding bonds ever be secured by revenues not authorized by this chapter to be pledged to the payment of bonds issued for other than refunding purposes.

(3) (a) Refunding bonds issued under this chapter may be exchanged for a like principal amount of the bonds to be refunded, may be sold in the manner provided in this chapter for the sale of other bonds, or may be exchanged in part and sold in part.

(b) If sold, the proceeds of the sale not required for the payment of expenses may be invested in United States Government obligations or in obligations unconditionally guaranteed by the United States of America in such manner as may be provided in the authorizing resolution, so long as these investments will mature with interest so as to provide funds to pay when due, or called for redemption, the bonds to be refunded together with interest and redemption premiums, if any.

(4) The proceeds or obligations shall, and other funds legally available to the board for such purposes may, be deposited in trust with an FDIC insured bank doing business in Utah, or its successor, to be held for the payment and redemption of bonds to be refunded.

(5) The deposit and any reinvestment shall be held in trust by the escrow agent for the payment of bonds with interest and redemption premiums, if any, on maturity or upon an available redemption date or upon an earlier voluntary surrender with the consent of the board.

History: C. 1953, 53A-20a-112, enacted by L. 1993, ch. 273, § 12.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-113. Authorized loans for acquisition, construction, furnishing, and equipping of projects - Evidence of indebtedness - Provisions - Agreements with lending institutions - Satisfaction and discharge - Exemption from taxation.

(1) For the purpose of paying all or part of the costs of a project under Section 53A-20a-103, the board, on behalf of the institution for which the project is to be acquired, constructed, furnished, and equipped, may borrow money on the credit of the income and revenues to be derived from the operation of the project, and from the imposition of student building fees, land grant interest, and net proceeds from proprietary activities or from other legally available sources, and to evidence the indebtedness may execute any promissory note or other evidence of indebtedness appropriate, if the note or other evidence of indebtedness specifies on its face that it

does not constitute a general obligation of the state.

(2) The board may, in order to secure the payment of the loan, grant a mortgage, trust deed, or other security device covering all or part of the project, and the land acquired for the project and upon which the project is situated.

(3) The rights and remedies available in the event of a default to the mortgagee, trustee, or other lender are subject to agreement as contained in the mortgage, trust deed, or other security instrument.

(4) (a) The agreement may provide that, in the event of a default in the payment or the violation of any agreement contained in the document, the mortgage, trust deed, or other security instrument may be foreclosed or otherwise realized in any manner permitted by law.

(b) No deficiency judgment shall lie in any event and no breach of the agreement shall impose any general obligations or liability upon the state or the borrowing institution.

(5) The note or other evidence of indebtedness may have all the qualities and incidents of negotiable paper, and is not subject to taxation by the state, except for the corporate franchise tax, or to taxation by any county, municipality, or political subdivision of the state.

(6) The note or other evidence of indebtedness and mortgage may contain additional provisions with respect to repayment out of the income and revenues derived from the operation of the building, from the imposition of student building fees, land grant interest, and net profits from proprietary activities, or from other legally available sources as the board considers necessary and proper.

(7) The board may enter into an agreement it considers necessary with the lending institution as to the use which will be made of any project, the operation, maintenance, and supervision of the project, the imposition of fees, charges, and rentals for its use, including the equipment contained in the project and the collection and disposition to be made of the proceeds of fees, charges, and rentals.

(8) In order to secure the prompt payment of principal and interest and to pay the cost of the maintenance and operation of the project, the board has the same power and authority with respect to the indebtedness created under this section as it has in respect to the issuance of bonds under the other provisions of this chapter.

(9) When any obligation owing to finance the cost of any project constructed or acquired under this section has been fully paid as to principal and interest, the mortgage is satisfied and discharged.

(10) All buildings and additions to existing buildings erected, and the equipment for the buildings, is exempt from taxation as long as the legal title remains in the borrowing agency.

History: C. 1953, 53A-20a-113, enacted by L. 1993, ch. 273, § 13.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-114. Financing projects and buildings - Security instruments - Terms.

(1) In connection with the financing of any project or building under this chapter, the board, on behalf of an institution, may grant a purchase money mortgage, trust deed, or other security

device pledging any land, buildings, furnishings, equipment, or other facilities to be acquired or constructed and paid for from the proceeds of the financing.

(2) The rights and remedies available in the event of a default to the mortgagee, trustee, or lender shall be as agreed upon between the board and the lender and contained in the document.

(3) In making any agreements, the board does not have the power to obligate itself or the state, except with respect to:

(a) the project and the application of the revenues from it; and

(b) the revenues from any special fund pledged to repay it.

(4) (a) Any purchase money mortgage, trust deed, or other security device made or granted by the board to secure the loan or other method of financing may also provide that in the event of a default in payment or the violation of any agreement, the mortgage, trust deed, or security device may be foreclosed or otherwise realized in any manner permitted by law.

(b) No deficiency judgment shall lie in any event and the breach of the agreement does not impose any general obligation or liability upon the board, the state, the proceeds of ad valorem taxes, or appropriations from the Legislature.

(5) The purchase money mortgage, trust deed, or other security device may provide that any mortgagee, trustee, lender, or the holder of any evidence of indebtedness secured by the security instrument may become the purchaser at any foreclosure sale, if the highest bidder.

History: C. 1953, 53A-20a-114, enacted by L. 1993, ch. 273, § 14.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-115. Limitation on issuance of bonds.

No bonds, other than refunding bonds, may be authorized or issued by the board or any institution under this chapter without the prior approval of the Legislature.

History: C. 1953, 53A-20a-115, enacted by L. 1993, ch. 273, § 15.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-116. Grants and loans from Permanent Community Impact Fund Board.

The board is a state agency to which the Permanent Community Impact Fund Board created under Section 9-4-304 may make grants and loans under Section 9-4-305.

History: C. 1953, 53A-20a-116, enacted by L. 1993, ch. 273, § 16.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-117. Liberal construction.

The terms and provisions of this chapter shall be construed liberally to authorize actions of the board with respect to the issuance of bonds hereunder in order to realize fully the benefits that this chapter is intended to provide to the board and the public education institutions in connection with the financing of needed educational facilities in the state at the lowest possible borrowing cost.

History: C. 1953, 53A-20a-117, enacted by L. 1993, ch. 273, § 17.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

PART 2
PUBLIC EDUCATION CAPITAL PROJECTS

53A-20a-201. Sevier Valley Applied Technology Center revenue bonds - Technology programs/administration building.

(1) The State Board of Education, on behalf of Sevier Valley Applied Technology Center, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Sevier Valley Applied Technology Center to borrow money on the credit of the income and revenues of the Sevier Valley Applied Technology Center, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a technology programs/administration building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed a construction fund budget of $600,000 plus such additional amounts necessary to pay costs incident to the insurance and sale of the bonds, to pay capitalized interest on the bonds, and to fund any debt service reserve requirements for the bonds, and shall be issued in accordance with Part 1 of this chapter, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

History: C. 1953, 53A-20a-201, enacted by L. 1993, ch. 273, § 18.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

53A-20a-202. Sevier Valley Applied Technology Center revenue bonds - Technical training/community services building.

(1) The State Board of Education, on behalf of Sevier Valley Applied Technology Center, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Sevier Valley Applied Technology Center to borrow money on the credit of the income and revenues of Sevier Valley Applied Technology Center, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a technical training/community services

building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed a construction fund budget of $2,800,000 plus such additional amounts necessary to pay costs incident to the insurance and sale of the bonds, to pay capitalized interest on the bonds, and to fund any debt service reserve requirements for the bonds, and shall be issued in accordance with Part 1 of this chapter under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

History: C. 1953, 53A-20a-202, enacted by L. 1993, ch. 273, § 19.

Effective Dates. - Laws 1993, ch. 273 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

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Section 53A-22 Utah Code Annotated— Construction of Schools in Districts with New Industrial Plants

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Section 53A-22 Utah Code Annotated—Construction of Schools in Districts with New Industrial Plants

CHAPTER 22
CONSTRUCTION OF SCHOOLS IN DISTRICTS WITH NEW INDUSTRIAL PLANTS

Section

53A-22-101. Purpose of chapter.
53A-22-102. New industrial plants in school district - Duty of school district.
53A-22-103. Funds raised - Highest priority projects.
53A-22-104. Minimal school facilities - Lease-purchase or lease with option to purchase agreement authorized.
53A-22-105. Remote industrial plant requiring new school building - Construction permit requirements.
53A-22-106. Rules and regulations authorized.

53A-22-101. Purpose of chapter.

It is the purpose of this chapter to provide school districts with the ability to raise funds for necessary new school construction, including additions to existing school buildings caused by the development of industrial plants that require large numbers of workers for their construction and operation.

History: C. 1953, 53A-22-101, enacted by L. 1988, ch. 2, § 280.

53A-22-102. New industrial plants in school district - Duty of school district.

A school district confronted with actual or anticipated large increases in enrollment because of the construction of a new industrial plant or plants to a degree that new buildings or additions to existing buildings are required shall make the following efforts to raise funds to meet those building needs:

(1) bond to its maximum capacity and maintain maximum bonding by rebonding at least once every other year until building needs are met;

(2) maintain an annual property tax levy for capital outlay and debt service combined of not less than .0036 per dollar of taxable value; and

(3) initiate any action necessary to qualify for any state, federal, or other funds for capital outlay for which the district may be eligible.

History: C. 1953, 53A-22-102, enacted by L. 1988, ch. 2, § 281.

53A-22-103. Funds raised - Highest priority projects.

(1) Funds raised by the school district in accordance with this chapter shall be used on the highest priority projects established by the district's five-year comprehensive capital outlay plan, which shall be approved by the State Board of Education.

(2) The plan must include appropriate priorities for the construction of minimal facilities for new students.

(3) If priority use of the funds raised by the district in accordance with this chapter does not provide minimal facilities as defined by the State Board of Education for students in any new and remote community established in the district, or for students in existing communities because of the location of new or expanded industries in the area, the district may enter into lease-purchase agreements or lease with option to purchase agreements with private builders to furnish the minimal facilities required by the district and approved by the State Board of Education.

(4) The district may make payments on these agreements from any of its otherwise uncommitted capital outlay funds.

History: C. 1953, 53A-22-103, enacted by L. 1988, ch. 2, § 282.

53A-22-104. Minimal school facilities - Lease-purchase or lease with option to purchase agreement authorized.

(1) If a school district is unable to find any private builder who is capable of furnishing minimal school facilities in new or existing communities, on terms acceptable to the district and to the State Board of Education, the developers of the industrial plant, or plants, may agree to provide minimal school facilities under a lease-purchase agreement or lease with option to purchase agreement with the district.

(2) The district shall pay the developers according to the terms of the agreement from sources listed for such payments in this chapter.

History: C. 1953, 53A-22-104, enacted by L. 1988, ch. 2, § 283.

53A-22-105. Remote industrial plant requiring new school building - Construction permit requirements.

A state officer or local governmental official may not issue a construction permit or other authorization for the construction of a remote industrial plant requiring the provision of a new community, including new public elementary and secondary school buildings, until the local school board of the district in which the plant will be located has certified to the state office or local official, in writing, that the district has obtained the funds, or a firm commitment that funds will be made available as necessary, to build the required minimal school facilities.

History: C. 1953, 53A-22-105, enacted by L. 1988, ch. 2, § 284.

53A-22-106. Rules and regulations authorized.

The State Board of Education shall adopt all standards and rules necessary for the administration and enforcement of this chapter.

History: C. 1953, 53A-22-106, enacted by L. 1988, ch. 2, § 285.

CHAPTER 23
BUILDING RESERVE FUND

Section
53A-23-101. School board reserve fund.
53A-23-102. Revenues to be allocated to fund.
53A-23-103. Building Reserve Fund - Investment of fund.
53A-23-104. Accumulations - Expenditures from fund - Public notice - Transfer to other funds.

53A-23-101. School board reserve fund.

Each local school board may establish and maintain a reserve fund to accumulate funds to meet the capital outlay costs of the school district, including costs for planning, constructing, replacing, improving, equipping, and furnishing school buildings and purchasing school sites.

History: C. 1953, 53A-23-101, enacted by L. 1988, ch. 2, § 286.

COLLATERAL REFERENCES

C.J.S. - 79 C.J.S. Schools and School Districts §§ 641 to 643.

53A-23-102. Revenues to be allocated to fund.

A local school board may annually allocate to the fund any revenues from the state which are made available for capital outlay purposes, and not otherwise earmarked, and such other revenues as the school district may raise locally for this purpose.

History: C. 1953, 53A-23-102, enacted by L. 1988, ch. 2, § 287.

53A-23-103. Building Reserve Fund - Investment of fund.

(1) The fund shall be known as the Building Reserve Fund of ________________ (name of school district) School District.
(2) Any interest or capital gains accrue to the benefit of the fund.
(3) The fund may only be invested as provided in Title 51, Chapter 7, the State Money Management Act of 1974.

History: C. 1953, 53A-23-103, enacted by L. 1988, ch. 2, § 288.

Cross-References. - Capital outlay program, § 53A-21-106.

53A-23-104. Accumulations - Expenditures from fund - Public notice - Transfer to other

funds.

(1) The money in the fund shall accumulate from year to year.

(2) However, the local school board may make expenditures from the fund if public notice is given stating the purpose for which the expenditures are to be made.

(3) The procedure for giving public notice is set forth in Section 53A-19-102.

(4) Expenditures shall be made for capital outlay costs only.

(5) Money in the fund at the end of the year shall remain intact and may not be transferred to any other fund or used for any other purpose.

History: C. 1953, 53A-23-104, enacted by L. 1988, ch. 2, § 289.

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Section 53A-3-402 Utah Code Annotated— (Local School Boards) Powers and Duties Generally

53A-3-402. Powers and duties generally.

(1) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(2) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(3) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(4) A board may establish, locate, and maintain elementary, secondary, and vocational schools.

(5) A board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(6) A board may establish and support school libraries.

(7) A board may collect damages for the loss, injury, or destruction of school property.

(8) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(9) (a) A board may apply for, receive, and administer funds made available through programs of the federal government.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

(c) Federal funds may only be expended for the purposes for which they are received and are accounted for by the board.

(10) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least ten years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(11) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(12) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(13) A board shall adopt bylaws and rules for its own procedures.

(14) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(15) A board may hold school on legal holidays other than Sundays.

(16) (a) Each board shall establish for each school year a school traffic safety committee to implement this subsection.

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6-20.1.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (c).

(e) The board shall require each elementary, middle, and junior high school within the district to develop and submit annually to the committee a child access routing plan.

(17) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

History: C. 1953, 53A-3-402, enacted by L. 1988, ch. 2, § 56; 1990, ch. 78, § 11; 1992, ch. 91, § 6; 1994, ch. 120, § 61.

Amendment Notes. - The 1994 amendment, effective May 2, 1994, substituted "Department of Transportation" for "Transportation Commission" in Subsection (16)(c)(iv) and made stylistic changes.

Cross-References. - Indebtedness, Chapter 18 of this title.

NOTES TO DECISIONS

Analysis

Authority of State Board.
Powers.
- Abandonment or discontinuance of school.
- Building restrictions.
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Authority of State Board.

While the State Board has general control and supervision of the public school system within the state, local school districts are controlled by local school boards, which are responsible for actually establishing, maintaining and managing the schools within a district and the State Board cannot govern, manage or operate any school district or program unless authorized by statute. Meyers ex rel. Meyers v. Board of Educ., 905 F. Supp. 1544 (D. Utah 1995).

Powers.

The powers of the board of education are statutory, and the board has only such powers as are expressly conferred upon it and such implied powers as are necessary to execute and carry into effect its express powers. Beard v. Board of Educ., 81 Utah 51, 16 P.2d 900 (1932).

- Abandonment or discontinuance of school.

Boards of education have power to discontinue a school and to require students to attend another school. Allen v. Board of Educ., 120 Utah 556, 236 P.2d 756 (1951).

A board of education of a county school district has the power to discontinue the instruction of students of particular grades in an established school in a community upon its providing reasonably adequate transportation of, and instruction for, such students in another school in the district. Widdison v. Board of Educ., 121 Utah 418, 242 P.2d 764 (1952).

- Building restrictions.

Cities have no power to impose building restrictions or regulations upon board of education in erection of school buildings, such control being in boards of education. Salt Lake City v. Board of Educ., 52 Utah 540, 175 P. 654 (1918).

- Eminent domain.

Extraterritorial powers of condemnation are not among the implied powers of boards of education. Bertagnoli v. Baker, 117 Utah 348, 215 P.2d 626 (1950).

- Improvements.

Board of education had power, under clause providing that it might do all things needful for maintenance, prosperity and success of schools, to use its own maintenance employees to install sprinkling system where evidence showed that, at time school was constructed, district was short of money, that district had advertised for bids for materials only and that installation of sprinkling system was not incidental to construction of school; fact that sprinkling system was installed without advertising for bids was inconsequential. Utah Plumbing & Heating Contractors Ass'n v. Board of Educ., 19 Utah 2d 203, 429 P.2d 49 (1967).

- Realignment of attendance boundaries.

The board's decision to realign attendance boundaries is clearly within the valid objective of "providing the best possible school system in the most efficient and economical way" and is within the statutory authority of the board under this section. Espinal v. Salt Lake City Bd. of Educ., 797 P.2d 412 (Utah 1990).

- Representation of school district.

Only a local board of education, not an individual school, has power to sue, be sued, or otherwise act as representative of a local school district and its component schools. Bauchman ex rel. Bauchman v. West High Sch., 900 F. Supp. 254 (D. Utah 1995).

- Student body organizations.

It is within power of board of education to authorize and maintain a student body organization as an educational activity. Beard v. Board of Educ., 81 Utah 51, 16 P.2d 900 (1932).

Review of board's actions.

If action of board of education is within powers conferred upon it by Legislature, and pertains to matter in which board is vested with authority to act, a court may not review action of the board to substitute its judgment for that of the board as to matters within its discretion, but action may be maintained by taxpayer to enjoin and restrain school authorities from acting beyond scope of their powers or in violation of law where remedy in law is inadequate. Beard v. Board of Educ., 81 Utah 51, 16 P.2d 900 (1932); Espinal v. Salt Lake City Bd. of Educ., 797 P.2d 412 (Utah 1990).

COLLATERAL REFERENCES

Am. Jur. 2d. - 68 Am. Jur. 2d Schools § 65.

C.J.S. - 78 C.J.S. Schools and School Districts §§ 142 to 157.

A.L.R. - Zoning regulations as applied to public elementary and high schools, 74 A.L.R.3d 136.

AIDS infection as affecting right to attend public school, 60 A.L.R.4th 15.

Liability of school authorities for hiring or retaining incompetent or otherwise unsuitable teacher, 60 A.L.R.4th 260.

What oral statement of student is sufficiently disruptive so as to fall beyond protection of First Amendment, 76 A.L.R. Fed. 599.

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Administrative Rule R277-454—
Construction Management of School Building Projects

R277-454. Construction Management of School Building Projects.

R277-454-1. Definitions.
R277-454-2. Authority and Purpose.
R277-454-3. Standards.

R277-454-1. Definitions.

A. "Construction management" means a contractual and professional working relationship between the owner of a construction project and a CM.

B. "CM" means an individual designated as a construction manager. The CM may be an architect, engineer, general contractor, or other professional consultant. It may also be an entity which is referred to as a construction management firm. The CM works as the agent of the owner of the construction project. The CM, at the discretion of the owner, may assist in the development and implementation of any or all of the predesign, design, bidding, construction, and occupancy stages of the construction project. The CM is responsible for the effective, orderly, and acceptable completion of the construction project.

C. "Board" means the Utah State Board of Education.

R277-454-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, Section 53A-1-401(3), U.C.A. 1953, which allows the Board to adopt rules in accordance with its responsibilities and Section 53A-20-103, U.C.A. 1953, which requires the Board to recommend minimum requirements for contracts and agreements between architects, engineers, and local boards, and for advertising, bidding, and contractual procedures for school plant construction.

B. The purpose of this rule is to specify the standards local boards of education must follow in using construction management for school construction projects.

R277-454-3. Standards.

A. A construction management contract must clearly specify the duties of the CM with respect to the building project.

B. A local school district must bid each component part of the building project in accordance with advertising, public opening, performance bond, payment bond, and other statutory requirements.

C. A school district may use a tax exempt status in purchasing material for a construction project only if it purchases material from a supplier and makes the installation itself or issues a contract to a third party for installation. If the seller and installer are the same, tax exempt status may not be used. To ensure that the seller and installer are not the same, the original project bid, specifications, and contracts must specify which materials are furnished by the school district and which are furnished by the contractors.

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References: Art X Sec 3, 53A-1-401(3), 53A-20-103.

History: 11397, NSC, 12/14/90; 13359, 5YR, 11/15/92; 20126, 5YR, 10/20/97.

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S.

Administrative Rule R277-455—Standards and Procedures for Building Plan Review

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R277. Education, Administration.

R277-455. Standards and Procedures for Building Plan Review.

R277-455-1. Definitions.

A. "USOE" means the Utah State Office of Education.

B. "Building Code" means all of the following which are available at the Division of Facilities Construction and Management and from the USOE Finance and Statistics Division:

(1) "Uniform Building Code UBC)" as promulgated by the International Conference of Building Officials (ICBO);

(2) "National Elecrical Code (NEC)" as promulgated by the National Fire Protection Association (NFPA);

(3) "Uniform Plumbing Code (UPC)" as adopted by the International Association of Plumbing and Mechanical Officials (IAPMO);

(4) "Uniform Mechanical Code (UMC)" as promulgated by the ICBO and IAPMO;

(5) "Utah Energy Code" as adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc./Illuminating Engineers Society (ASHRAE/IES);

(6) "Americans with Disabilities Act Handbook"; and

(7) "Utah State Fire Marshal Laws, Rules and Regulations."

C. "Schematic drawing" means a first, single line drawing of the layout of a facility showing the general orientation and development of a project.

D. "Preliminary plan" means a further development of a schematic drawing illustrating the size and character of a project including plans, elevations, and other necessary drawings giving the size and character of the structure, the mechanical system, the electrical system, and an estimate of the construction cost.

E. "Final plans" means the plans and specifications from which the project is to be constructed.

F. "State Superintendent" means the State Superintendent of Public Instruction or his or her designee.

G. "Board" means the Utah State Board of Education.

R277-455-2. Authority and Purpose.

A. This rule is authorized by Section 53A-20-102 which requires the State Superintendent to approve specified district building projects, Section 53A-20-104 which requires the State Superintendent to enforce state statutes relative to district building projects, Sections 53A-1-402(1)(d) and 53A-20-102(2)(c) which allow the Board to adopt rules relative to district building projects and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the standards and procedures by which proposed building construction plans are approved by the State Superintendent.

R277-455-3. Submissions.

A. If the total annual accumulative cost of a building project exceeds $100,000, before the project is let for bid, the district shall submit to the State Superintendent for review and approval:

(1) at least one set of the preliminary plan for the project

as soon as the plans are completed; and

(2) one set of the final plans, with the signed approval of the State Fire Marshal, the State Health Department or local Health Department, and the State Division of Facilities Construction and Management, where applicable under Subsection 3(C).

B. All school districts prior to bid shall submit to the State Fire Marshal:

(1) one set of the preliminary plan of a building project as soon as it is completed; and

(2) one set of the final plan for approval.

C. All school districts constructing facilities in whole or in part with state funds shall submit for approval project plans and specifications to the State Division of Facilities Construction and Management prior to bid in accordance with Section 26-29-4.

D. All districts shall provide one set of the "as built" plans to the Board. School districts shall maintain "as built" plans.

E. Plans for proposed building sites shall be submitted to the State Superintendent for approval.

F. Prior to the adoption of a change order affecting educational adequacy, life safety, or access to persons with disabilities, it shall be submitted to the State Superintendent for approval.

R277-455-4. Criteria for Approval.

A. To receive approval of a proposed building site, the local school district must certify that:

(1) the site is well located;

(2) the site is of adequate size;

(3) [~~the site has been inspected by the~~]staff of the Utah Geological Survey have reviewed and recommended approval of the geologic hazards report provided by the school district geotechnical consultant; and

(4) the location of the site has been determined after consultation with appropriate local government authorities in accordance with Section 53A-20-108.

B. School districts shall have a procedure to review geologic hazards in screening potential school facility sites prior to acquisition.

[~~B~~]C. To receive approval of proposed building plans, the local school district must provide evidence that:

(1) the plans meet the requirements of Section 53A-20-102;

(2) the school district has provided for inspection by an inspector qualified under criteria established by R156-56-11, Uniform Building Standard Rules, and the State Superintendent; and

(3) the school district has provided the notice required by Section 53A-20-108.

R277-455-5. Procedures.

A. The USOE shall review preliminary plans upon receipt. Recommendations, suggestions, and comments resulting from the review are sent by letter to the affected school district superintendent and the architect. Meetings with the district superintendent, USOE staff, district staff, and the architect to resolve problems revealed by the review may be initiated by the USOE staff, the district superintendent, or the architect. The review of a preliminary plan represents the major review of the USOE. The USOE shall make every effort to resolve problems relating to the approval of plans prior to the submission of the final plans.

B. Upon receipt, the USOE reviews final plans in light of the preliminary review and any subsequent discussions. Approval of the plans is given by the State Superintendent if the final plans meet the criteria of Section 4(B).

C. Upon receipt, the USOE considers requests for site approval. The State Superintendent approves requests that meet the criteria of Section 4(A) unless there is justification for exception.

D. Upon receipt, requests for approval of change orders are reviewed by the USOE and, if appropriate, submitted to the State Fire Marshal, State Health Department and State Building Board for approval. Approval or rejection of the change order is made on the basis of compliance with building code specifications, statutory and administrative rule requirements, and Fire Marshal and Building Board approval.

E. Approval of plans and specifications and of change orders is signified by the signature of the authorized person on the document.

KEY: educational facilities
[~~1988~~]2000
Notice of Continuation February 26, 1999

53A-20-102
53A-20-104
53A-1-402(1)(d)
53A-1-401(3)
53A-20-108
26-29-4

California Contractor's License Exam Center, Inc:

Inspector certification courses in preparation for International Conference of Building Officials (ICBO) certification exams. Courses include Building Inspector; Plans Examiner; Electrical Inspector; Mechanical Inspector; Plumbing Inspector; Fire Inspector; Building Code Accessibility and Usability Specialist; Reinforced Concrete, Structural Steel and Welding, Structural Masonry. (800) 219-6800 for information. Courses periodically scheduled in Salt Lake City, UT.

Check the status of any U.S. legislation:

http://thomas.loc.gov

Crime Prevention Through Environmental Design: A Guide for Public Schools in Maryland:

A publication that is available from:

The Public School Construction Program
200 West Baltimore Street
Baltimore, MD 21201

(410) 767-0616

Email a request at:
ystenzle@msde.state.md.us
http://www.pscp.state.md.us
Under General Information click on CPTED GUIDE

Fire Code, Prevention and Fire Service Information:

National Fire Protection Association (NFPA), publisher of National Fire Codes and provider of fire code technical support. (800) 344-3555

http://www.nfpa.org

Geotechnical Engineering Experts Now Listed on the Internet:

Firms and individuals who are providing expert witness services in geotechnical, environmental and civil engineering and the geosciences are now listed on the ASFE (Associated Soil and Foundation Engineers) web site at:

http://www.asfe.org

Firms and individuals are listed alphabetically by state and nation.

Information on daylighting and other renewable energy and energy-efficient technologies for schools:

U.S. Department of Energy, EnergySmart Schools web site:
http://www.eren.doe.gov/energysmartschools

U.S. Department of Energy, Rebuild America web site:
http://www.eren.doe.gov/buildings/rebuild

Utah Office of Energy Services, (800) 662-3633
http://www.dced.state.ut.us/energy

Energy Efficient and Renewable Energy Clearinghouse (EREC):
(800) DOE-EREC

Information on gas pipeline inspection and corrosion:

National Association of Corrosion Engineers web site
http://www.nace.org

National Clearinghouse Educational Facilities web site:

Educators, parents and community members who are interested in school design can view a gallery of school projects nationally recognized for their overall architectural design or a particular design feature. There are also links to the latest research and current news on school design issues.

http://www.edfacilities.org

National Program for Playground Safety:

Support materials for playground safety
http://www.uni.edu/playgound/about_us.html

Phi Delta Kappa International:

Phi Delta Kappa, an international education association, posts many valuable resources on their website, including numerous full-text articles from *Kappan* magazine on topics such as technology, education reform, school safety and more.

http://www.pdkintl.org

Schools from Non-School Settings:

The Thomas Jefferson Center for Educational Design will be conducting research on creating schools from non-traditional space. After establishing an inventory of various sites throughout the U.S., the Center will select several case studies for in-depth analysis. This field study will investigate the integration of a non-traditional site into the educational program. The project is expected to be completed during 2001. For additional information:

http://curry.edschool.Virginia.EDU/curry/centers/jefferson

Statewide Building Code Classes:

Presented via EdNet and co-sponsored by the Utah State Department of Occupational and Professional Licensing (DOPL).

Contact: Ernie Perkins, (801) 593-2357, Davis Applied Technology Center, 550 East 300 South, Kaysville, UT 84037, (801) 593-2549.

Statutes and Rules of the Utah Fire Prevention Board:

Utah State Fire Marshal's Office, (801) 284-6350

http://www.fm.state.ut.us

Technology and Learning:

Produced by *Technology & Learning* magazine and others, Techlearning.com provides valuable information on integrating technology into K-12 schools. The site includes a grant database where schools, educators or students can search for available technology grants and funding. Under the "What's Working" section, browse through over 100 full-text articles on educational technology-related topics.

http://techlearning.com

U.S. Access Board:

A website that will keep you informed on accessibility issues. The site contains federal accessibility guidelines and answers to frequently asked questions about building accessibility.

http://www.access-board.gov

U.S. Department of Education website regarding school construction:

http://www.ed.gov/inits/construction

U.S. Charter Schools Website:

Provides information on charter school development, organization, and operation. Practical information on starting and running a charter school is provided.

http://www.uscharterschools.org

Appendix A
Building Inspector List
from
Utah State Department of Commerce
February 2, 1999 and June 9, 2000

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR

As of 6/9/2000

License Number	Name	Expiration Date
264376-5601	Ahrensbach, Robert Kelly	07/31/2001
322604-5601	Allen, Curt V	07/31/2001
263952-5601	Allred, Jack Earl	07/31/2001
317848-5601	Anderson, Gilbert L	07/31/2001
341718-5601	Ashton, Paul Karl	07/31/2001
264033-5601	Bailey, William Allen	07/31/2001
0381065-5601	Bailey,Jeff	07/31/2001
161040-5601	Barker, Ammon L	07/31/2001
264598-5601	Barrett, Michael Gary	07/31/2001
264372-5601	Bass, Lee Albert	07/31/2001
265891-5601	Beardall, Gary Leon	07/31/2001
278451-5601	Bell, Bill David	07/31/2001
185771-5601	Bench, Steven Douglas	07/31/2001
265118-5601	Bender, Daniel Marc	07/31/2001
265580-5601	Bennett, Robert N	07/31/2001
331359-5601	Berntson, Paul C	07/31/2001
264597-5601	Bezzant, Douglas G	07/31/2001
265581-5601	Blackham, Mike K	07/31/2001
346595-5601	Bouck, Mark Richard	07/31/2001
320754-5601	Bracken, Jackson Reid	07/31/2001
0369982-5601	Brady, Gordon Calvin	07/31/2001
266389-5601	Brown, Allan, L	07/31/2001
311918-5601	Bundy, Corey L	07/31/2001
261368-5601	Burrows, Hal R	07/31/2001
267298-5601	Bush, N Kent	07/31/2001
370467-5601	Campbell, Cary Edward	07/31/2001
264361-5601	Cannon, David Howard	07/31/2001
264367-5601	Carlile, Richard Verd	07/31/2001
370666-5601	Carpenter, Bradley Lynn	07/31/2001
0377256-5601	Chart, Dennis Lee	07/31/2001
358260-5601	Chase, John Andrews	07/31/2001
334865-5601	Chesley, Mark Lloyd	07/31/2001
263980-5601	Christensen, Fred Ortho	07/31/2001

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR

As of 6/9/2000

License Number	Name	Expiration Date
265308-5601	Church, Gary G	07/31/2001
263971-5601	Clark, Brett D	07/31/2001
362836-5601	Collier, Keith Russell Be	07/31/2001
262532-5601	Collins, R David	07/31/2001
264362-5601	Copeland, Diane	07/31/2001
137569-5601	Costanzo, Thomas A	07/31/2001
264990-5601	Cowan, John L	07/31/2001
264494-5601	Croshaw, Kevin Doyle	07/31/2001
140869-5601	Cunningham, Marvin C	07/31/2001
265049-5601	Dabb, Kim Whitney	07/31/2001
263264-5601	Daily, Randall Forrest	07/31/2001
263816-5601	Davies, Don K	07/31/2001
263813-5601	Davis, Don B	07/31/2001
293350-5601	Davis, Marc Lowell	07/31/2001
274527-5601	Davis, Quinn J	07/31/2001
348020-5601	Dickinson, Thomas L	07/31/2001
264519-5601	Domian, Edmund Christophe	07/31/2001
264525-5601	Durfee, Michael G	07/31/2001
262944-5601	Duzenack, Francis E	07/31/2001
116262-5601	Empey, Joseph Clark	07/31/2001
265401-5601	Fawson, Glade R	07/31/2001
265607-5601	Fife, Boyd Evan	07/31/2001
265588-5601	Fisher, Ronald L	07/31/2001
264991-5601	Formo, Barry Walt	07/31/2001
264523-5601	Fox, Bruce A	07/31/2001
277773-5601	Frenyea, Ted	07/31/2001
274025-5601	Glines, Gary Lloyd	07/31/2001
271806-5601	Goez, William James	07/31/2001
264087-5601	Gonzales, Gilbert	07/31/2001
137875-5601	Graham, Marvin H	07/31/2001
264378-5601	Green, William George	07/31/2001
271077-5601	Greenhalgh, Wesley Joseph	07/31/2001
270258-5601	Haderlie, Bryce K	07/31/2001

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR
As of 6/9/2000

License Number	Name	Expiration Date
265297-5601	Hall, Mac J	07/31/2001
264524-5601	Hamblin, Steven R	07/31/2001
330092-5601	Hanson, Larry Warren	07/31/2001
358561-5601	Hardman, Barry Kent	07/31/2001
267703-5601	Hartwell, Richard	07/31/2001
265289-5601	Hendricks, Mark E	07/31/2001
265609-5601	Hicks, John L	07/31/2001
264993-5601	Hillier, Brett M	07/31/2001
265582-5601	Hilton, Jody L	07/31/2001
287862-5601	Hinrichs, Andrew Paul	07/31/2001
278077-5601	Hosler, Bret Allen	07/31/2001
265398-5601	Hugo, Charles V	07/31/2001
369514-5601	Hunsaker, Kurt Bradbury	07/31/2001
317100-5601	Hunsaker, Michael S	07/31/2001
373796-5601	Hunsaker, Robert M	07/31/2001
264019-5601	Isakson, Leslie Brinkman	07/31/2001
265583-5601	Jackson, Donna S	07/31/2001
261278-5601	Jacobson, Kirk C	07/31/2001
269195-5601	Jaynes, David Theron	07/31/2001
266728-5601	Jernigan, Shannon Joshua	07/31/2001
309225-5601	Johnson, David Lee	07/31/2001
0276655-5601	Johnson, Jim Richard	07/31/2001
260988-5601	Johnson, Peter James	07/31/2001
328110-5601	Johnson, Wendy Kay	07/31/2001
290663-5601	Jorgenson, Eric Lynn	07/31/2001
0376262-5601	Kearl, Bradley Mark	07/31/2001
270494-5601	Kendall, Clifford Wayne	07/31/2001
128753-5601	Kerner, Michael G	07/31/2001
0263053-5601	Kerr, Gary Russell	07/31/2001
261438-5601	Kester, Raymond Dawayne	07/31/2001
264078-5601	Kester, Richard Ellis	07/31/2001
330959-5601	Kitchen, Steven D	07/31/2001
272648-5601	Korenko, Lewis George	07/31/2001

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR
As of 6/9/2000

License Number	Name	Expiration Date
171273-5601	Lapray, Ross G	07/31/2001
116815-5601	Larsen, Leon	07/31/2001
265394-5601	Larsen, Mark Burgis	07/31/2001
0370031-5601	Leany, Kenneth Lyle	07/31/2001
263294-5601	Leishman, Jeffery R	07/31/2001
266388-5601	LeMay, Kathy C	07/31/2001
261365-5601	Lessing, Hal Ray	07/31/2001
261846-5601	Levanger, David Wayne	07/31/2001
288524-5601	Lincoln, Lawrence B	07/31/2001
271261-5601	Lisonbee, James	07/31/2001
359891-5601	Lowe, Duskin R	07/31/2001
319918-5601	Mallory, Michael B	07/31/2001
265585-5601	Marsell, Scott E	07/31/2001
262950-5601	Maughan, H Eldon	07/31/2001
265893-5601	Maynes, Joseph Creig	07/31/2001
265587-5601	McClintic, James L	07/31/2001
264989-5601	McDonald, Robert G	07/31/2001
266754-5601	Mertlich, Dennis C	07/31/2001
264030-5601	Mitchell, Gerald V	07/31/2001
264489-5601	Monsen, Dallas C	07/31/2001
268958-5601	Montalvo, Ty M	07/31/2001
343039-5601	Morrison, Darrell G	07/31/2001
264370-5601	Morton, Geoffrey Monroe	07/31/2001
316186-5601	Mott, Karl DelRay	07/31/2001
277371-5601	Muirhead, Ernest B	07/31/2001
264327-5601	Murray, Stuart J	07/31/2001
262533-5601	Nance, Daniel Lee	07/31/2001
333418-5601	Nelson, Charles Scott	07/31/2001
263814-5601	Nelson, John P	07/31/2001
268415-5601	Neve, James Douglas	07/31/2001
265313-5601	Nicholls, Dale Lee	07/31/2001
121940-5601	Ogura, Daniel I	07/31/2001
268417-5601	Page, Jim Fredrick	07/31/2001

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR

As of 6/9/2000

License Number	Name	Expiration Date
265299-5601	Palmer, Terry Bruce	07/31/2001
264286-5601	Patrick, Steven Scott	07/31/2001
269189-5601	Patterson, Carl E	07/31/2001
347104-5601	Paxton, Edward Lynn	07/31/2001
276517-5601	Peck, Korwyn Dean	07/31/2001
118605-5601	Perrick, James Duane	07/31/2001
264079-5601	Peterson, Dale Shell	07/31/2001
128635-5601	Polanshek, Dennis E	07/31/2001
321942-5601	Pope, Lloyd Wayne	07/31/2001
264983-5601	Preece, Brian Alan	07/31/2001
263955-5601	Price, Edward Arlo	07/31/2001
265591-5601	Reid, Steven James	07/31/2001
262535-5601	Rice, Gerald Walter	07/31/2001
260987-5601	Roberts, Merrill H	07/31/2001
262530-5601	Rudd, Kevin Lee	07/31/2001
264488-5601	Sales, Winston James	07/31/2001
333144-5601	Sattler, Rollin A	07/31/2001
264487-5601	Saunders, John J	07/31/2001
131142-5601	Sauter, Logan Gregory	07/31/2001
310904-5601	Schmid, Mark R	07/31/2001
265054-5601	Schulte, LeRoy William	07/31/2001
264077-5601	Shaffer, F Joel	07/31/2001
285947-5601	Shorts, Douglas K	07/31/2001
264978-5601	Simister, Kurt Allen	07/31/2001
266735-5601	Simkins, Richard Spencer	07/31/2001
264363-5601	Smith, Douglas Raymond	07/31/2001
0366923-5601	Smith, Gary Keith	07/31/2001
0365677-5601	Snelgrove, Jon	07/31/2001
264491-5601	Sowell, Clyde E	07/31/2001
267230-5601	Sowell, Todd M	07/31/2001
274452-5601	Speth, Brent Dean	07/31/2001
129343-5601	Squire, Morris J	07/31/2001
372075-5601	Staheli, John M	07/31/2001

State of Utah
Department of Commerce
Division of Occupational and Professional Licensing

COMBINATION INSPECTOR

As of 6/9/2000

License Number	Name	Expiration Date
267097-5601	Steffensen, Donald J	07/31/2001
0984506-5601	STEPHEN REDD	07/31/2001
260992-5601	Storey, Rial S	07/31/2001
261285-5601	Swensen, Delbert Lee	07/31/2001
278080-5601	Tate, Jerry A	07/31/2001
264090-5601	Taylor, Bruce	07/31/2001
266732-5601	Taylor, Kevin A	07/31/2001
261294-5601	Taylor, Paul D	07/31/2001
264374-5601	Taylor, Robert J	07/31/2001
366506-5601	Thomas, Kip David	07/31/2001
277576-5601	Thompson, Jerry Brandt	07/31/2001
265304-5601	Thurgood, Marlow D	07/31/2001
0368301-5601	Thurgood, Ricky Lynn	07/31/2001
263825-5601	Tippets, Paul R	07/31/2001
316178-5601	Tomasino, Patrick J	07/31/2001
263978-5601	Vander Linden, William G	07/31/2001
272519-5601	Ward, Randall Anthony	07/31/2001
277023-5601	Webb, Jon I	07/31/2001
278109-5601	Webster, David Lane	07/31/2001
261372-5601	Wedman, Kevin James	07/31/2001
265590-5601	Weidauer, Douglas Arnold	07/31/2001
271136-5601	Weigel, Richard	07/31/2001
273806-5601	Wells, Jon Milton	07/31/2001
291964-5601	Western, Wallace Layne	07/31/2001
264995-5601	White, Stanley R Jr	07/31/2001
264527-5601	Whitney, Jeff	07/31/2001
264522-5601	Wilkey, Verl	07/31/2001
325019-5601	Wilkins, Donald G	07/31/2001
293207-5601	Williams, David R	07/31/2001
273142-5601	Williams, Joseph W	07/31/2001
261370-5601	Wray, Gerald Lynn	07/31/2001
269310-5601	Yergensen, Brian C	07/31/2001

Appendix K
Form SP-4
Preliminary Information on Proposed School Facilities Construction

Form SP-4

SOE 06-2530-65
Revised 30-Sep-1999

Utah State Office of Education
School Finance and Statistics
250 East 500 South
Salt Lake City, Utah 84111

Preliminary Information on Proposed School Facilities Construction*

1. School Name: ________________ Grades Housed ____

2. School Address: ________________

3. School District: ________________

4. Date: ________________

5. Type of Project:
   A. Complete New School___ (New location) New Building(s)___ (Existing location) Addition___ Remodel___
   B. Total Square Feet: New________ Remodel________

6. Architect: Firm Name ________________
   Project Lead Architect ________________
   Address ________________
   Telephone ________ FAX ________

7. Lead ICBO licensed inspector of record: ________________

8. Will state building aid be used in financing this construction project?
   Yes ______ No _____ If yes, what type ________________

9. Preliminary cost estimate? ____________ Estimated Completion Date ________

Please submit to:
Utah State Office of Education
Larry R. Newton, Education Specialist for
Property Tax and School Facilities
250 East 500 South
Salt Lake City, UT 84111-3284

(801) 538-7668; FAX: 538-7729 E-Mail: lnewton@usoe.k12.ut.us

*This completed form must be included with the preliminary drawings or schematics when a facility construction project proposal is initially submitted to the State Office of Education. H:\BUILDING\FORMSP-4.wpd

Appendix L

Form SP-5

Final Plans Data on Proposed School Facilities Construction

Form SP-5

SOE 06-2530-66
Revised 30-Sep-1999

Utah State Office of Education
School Finance and Statistics
250 East 500 South
Salt Lake City, Utah 84111

Final Plans Data on Proposed School Facilities Construction[1]

1. School Name: ______________________________ Grades Housed ________
2. School Address: ______________________________
3. School District: ______________________________
4. Architect: ______________________________ Date: __________
5. Type of Project:
   A. Complete New School ___ (New location) New Building(s) ___ (Existing location) Addition ___ Remodel ___
   B. Total Square Feet: New ___________ Remodel ___________
   C. Number of Stories: ___________
   D. Type of Structure: Fire Resistive _________ Combustible _________
   Semi-Fire Resistive _________ Mixed _________
6. Scheduled Month and Year of Completion: ____________________
7. Special Instructional Rooms–total number of each type:
   Kindergarten _____
   Art _____
   Business _____
   Gymnasium _____
   Applied Technology _____
   Family and Consumer Science _____
   Music (instrumental and choral) _____
   Science _____
   Resource _____
   Other (please list) _____
8. Regular elementary instructional rooms–total number: _________
9. Regular secondary instructional rooms–total number: _________
10. Other support spaces–total number of each type:
    Administrative Suite _____
    Auditorium _____
    Cafeteria _____
    Faculty Room _____
    Guidance Suite _____
    Health Suite _____
    Multi-purpose _____
    Media Center _____
    Little Theater _____
    Other (please list) _____
11. Total number of rooms (7+8+9+10) __________

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[1] This completed form must be returned prior to the date final plans are signed.

Appendix M

Form SP-5a

Architect's and School District's Certifications

Form SP-5a

SOE 06-2530-61
Revised 30-Sep-1999

Utah State Office of Education
School Finance and Statistics
250 East 500 South
Salt Lake City, Utah 84111

Architect's and School District's Certifications

1. School Name: ______________________________

2. School Address: ______________________________

3. School District: ______________________________

4. Architect: ______________________________ Date: __________

Architect's Certification

I certify that, to the best of my knowledge after examination of the plans and specifications, all standards and building code requirements[1] adopted by the Utah State Board of Education have been incorporated into the plans and specifications for the above named project.

____
For the Contract Architect

School District's Certification

I certify that the estimated cost of this project exceeds $300,000 and that the school district has completed value engineering reviews of the plans and specifications in accordance with 53A-20-102(2)(e), Utah Code.

____
School District Superintendent

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[1] The Utah State Board of Education has adopted the State of Utah-adopted building code which is found in 58-56-4, Utah Code.

Appendix P
School Energy Costs—A Matter of Leadership

374

Coming Winter 2001...

Energy$mart Schools

A Campaign of Rebuild America
U.S. Department of Energy

School Design Guidelines

EnergySmart Schools is developing a set of six climate-specific guidelines that will be used by school designers and developers as they plan, design and construct schools for America's children. These design guidelines will focus on issues of sustainability, energy efficiency and renewable energy. The guidelines will assist school decision-makers in building new schools and undertaking major renovations that are energy smart. Please email Patricia Plympton of the National Renewable Energy Laboratory at patricia_plympton@nrel.gov **if you are interested in acquiring a copy of the guidelines.**

BEST COPY AVAILABLE

t.

Administrative Rule R277-452—
Procedures for Filing Comprehensive Capital Outlay Plan

t.

Administrative Rule R277-452—
Procedures for Filing Comprehensive Capital Outlay Plan

[*Utah Administrative Code* List of Titles]|[Search Rules Publications]

Title R277. Education, Administration.

Rule R277-452. Procedures for Filing Comprehensive Capital Outlay Plan.

As in effect on March 1, 1999

Sections

- R277-452-1. Definitions.
- R277-452-2. Authority and Purpose.
- R277-452-3. Submission of Plan.
- R277-452-4. Appeal Procedures.

R277-452-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "USOE" means the Utah State Office of Education.

C. "Comprehensive Capital Outlay Plan" means a plan outlining current school buildings, their location, and their usage, with a description of future school buildings, their location, and their usage.

R277-452-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to outline the procedures to be followed by local boards in submitting a comprehensive capital outlay plan to the Board.

R277-452-3. Submission of Plan.

A. A local board of education shall file a comprehensive capital outlay plan with the Board once every five years. It shall also file a revised plan each time changes are adopted by the local board.

B. Review of plan by USOE

(1) Upon receipt of a plan, the State Superintendent of Public Instruction shall notify the

district submitting the plan of the plans acceptance, rejection, or need for modification.

(2) The notice shall:

(a) be given within 60 days of receipt of the plan;

(b) include reasons for rejection or need for modification; and

(c) advise the local board of the process to appeal the determination.

(3) The Board shall approve the plan if it is in accordance with generally accepted projection standards and techniques or unless an exception made by the State Superintendent is justified.

C. Within a reasonable time following a determination of rejection or need for modification, district and USOE staff shall meet to agree to a plan acceptable to the USOE and the district.

R277-452-4. Appeal Procedures.

A. A local board receiving notification of rejection or need for modification of its plan, may, after the meeting required under Subsection R277-452-3, make a written request for a hearing with the Board.

B. The written request shall include:

(1) justification for the request, including an explanation of the district and USOE's inability to reach agreement;

(2) what part of the plan necessitates reconsideration by the Board; and

(3) other relevant facts for reconsideration.

C. The local board may present its position to the Board orally.

D. The State Superintendent of Public Instruction may make written and oral recommendations to the Board concerning the Board's reconsideration.

E. No later than the first regular meeting of the Board after the appeal hearing, the Board shall make a final determination regarding the plan. The State Superintendent of Public Instruction shall notify the local board of the Board's decision.

F. The decision of the Board is the final administrative determination on the matter.

KEY: educational facilities, educational planning

Date of last substantive amendment: October 5, 1998

This rule is authorized by, and implements or interprets, the following: Art X Sec 3,

53A-1-401(3)

Converted by the Division of Administrative Rules. Questions about the *Utah Administrative Code* should be addressed to:

Mike Broschinsky Administrative Code Editor
PO Box 141007
Salt Lake City, Utah 84114-1007
Tel. (801) 538-3003

The HTML version of this rule is a convenience copy. This information is made available on the Internet as a public service. PLEASE SEE DISCLAIMER ABOUT INFORMATION AVAILABLE FROM www.rules.state.ut.us.

[*Utah Administrative Code* List of Titles][Search Rules Publications]

Last modified: Monday, April 12, 1999

BOBBY APPROVED D

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Section 53A-17a-142 Utah Code Annotated— School Building Utilization at 70% of Capacity—Exceptions

53A-17a-142. School building utilization at 70% of capacity - Exceptions.

(1) A school district shall do the following:

(a) certify to the State Board of Education that there are no public schools within the district operating at less than 70% of maximum student capacity as defined in rules adopted by the State Board of Education in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; or

(b) certify to the State Board of Education that any public school within the district operating at less than 70% of maximum student capacity could not be closed and the students in the school transferred to other schools in the district without overcrowding those schools. In the case of an elementary school operating at less than 70% of maximum capacity, the district would have to consider all elementary schools, for transfer purposes, within a three-mile radius of the school. The distance for consideration increases to a five-mile radius for a middle or junior high school and to a ten-mile radius for a high school.

(2) The State Board of Education may grant exceptions to Subsection (1) if a district can demonstrate to the satisfaction of the board that:

(a) the school is in a projected high student growth area; or

(b) the district has entered into an agreement with another school district to transfer students into the school to enable it to operate at least 70% of maximum student capacity.

(3) The board shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement these exceptions.

(4) The board may not adopt rules on utilization under this section in those cases where there is only one elementary school, one junior high school or middle school, and one high school in the district.

History: C. 1953, 53A-17-104, enacted by L. 1988, ch. 2, § 223; renumbered by L. 1991, ch. 72, § 54.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R277-458.

V.

Administrative Rule R277-458—70% Utilization of School Buildings

V.

Administrative Rule R277-458— 70% Utilization of School Buildings

R277. Education, Administration.
R277-458. 70% Utilization of School Buildings.
R277-458-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility designed for student instruction. For example, if a gymnasium were designed to accommodate two P.E. classes, the gymnasium would represent two instructional stations.

C. "Intolerable classroom" means a space too small for intended use, a space with undesirable environmental conditions that cannot be corrected, approved rent space, makeshift space, a library or stage used as a classroom, and any space declared unsuitable by the State Fire Marshal.

D. "Five-year plan" means the comprehensive capital outlay plan required under R277-452.

R277-458-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-17a-142 which requires that school buildings operate at no less than 70% of maximum capacity and provides exceptions, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for the efficient use of public school buildings.

R277-458-3. School Building Utilization.

A. As part of its five-year plan, a local school district shall certify to the Board based upon October 1 of the current year or the previous year peak student enrollments:

(1) that the district is in compliance with Section 53A-17a-142 and Board standards regulating school building utilization. A district may demonstrate compliance with Section 53A-17a-142 by using eighty percent capacity if computed with the student instruction stations option (see Sections 3(C)(2) and (3)); and

(2) the calculated capacity of each school in the district.

B. A school need not meet either student capacity standard of Section 3(A)(1) if it qualifies under any of the following:

(1) the nearest elementary school for transfer purposes is more than a three-mile radius in distance from other elementary schools;

(2) the nearest middle or junior high school for transfer purposes is more than a five-mile radius in distance from other middle or junior high schools;

(3) the nearest high school for transfer purposes is more than a ten-mile radius in distance from other high schools;

(4) the school operating at less than the student capacity standard could not be closed and the students moved to eligible transfer schools without the transfer schools exceeding 100% of capacity as determined by R277-458-3C(1);

(5) there is only one elementary school, one junior high or middle school, and one high school in the district.

C. Student capacity is determined as follows:

(1) computing building capacity according to one of the following three options:

(a) 70% Standard: computing the capacity based on Utah State Office of Education square feet per student criteria;

(b) Student Instructional Space Standard: computing capacity as determined by student instruction stations as defined under R277-458-3C(2) and (3);

(c) 70% Average Capacity Standard: computing the average of capacity based on Utah State Office of Education square feet per student criteria, and capacity as determined by student instruction stations as defined under R277-458-3C(2) and (3).

(2) identifying by room number or description each instructional station within a school. Intolerable classrooms and auxiliary spaces are not counted in calculating student capacity. Instructional spaces of less than 500 square feet in area, except for spaces for special education, are not counted in calculating student capacity. Rented instructional space may be excluded in computing building capacity providing rental fees cover district overhead costs for maintenance and operation. If option (b) is used and intolerable classrooms and spaces are excluded from the capacity calculation, schools must operate at 80% of capacity;

(3) determining the number of student instructional stations or the student capacity of each room or instruction station identified:

(a) in computing capacity of regular classrooms, the following standards apply:

(i) kindergarten: 20 students per classroom, per day--two one-half day sessions;

(ii) grades one through three: 15 students per classroom;

(iii) grades four through six: 20 students per classroom;

(iv) junior high and middle school: 20 students per classroom;

(v) junior high/senior high combinations: 20 and one-half students per classroom;

(vi) senior high: 20 students per classroom.

(b) student capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by school districts and another community agency for joint use, and similar rooms must be calculated individually. Capacity for self-contained special education classrooms shall be based upon students per class as defined by Board special education standards. Sufficient documentation must be filed to be available for audits.

(c) capacities of relocatable classrooms are included if in use;

(d) auditoriums; multi-purpose rooms; not more than one elementary school computer laboratory per elementary school; library media centers; rooms for federal Headstart programs; other rooms used for required state or federal programs; auxiliary spaces, such as stages; laboratories which are part of vocational or science programs; and pull-out rooms within team-teaching spaces are not included in calculating student instruction stations.

(e) a district which adopts a voted leeway specifically to reduce classroom size may use student capacity goals stipulated in its leeway election literature or its board minutes to establish a lesser instruction station capacity. Instruction station capacity may be reduced by the same percentage as the district decrease in teacher-pupil ratios as a result of the leeway.

(4) adjusting, at the option of the district, with Utah State Office of Education approval, for building capacity which is based on square foot data for the following:

(a) self-contained classrooms for handicapped students. The square footage for the classroom may be reduced proportionally according to the ratio of the regular student capacity of the room less the recommended students per class as defined by the Board special education standards, divided by the regular student capacity of the room;

(b) approved rental instructional areas;

(c) facilities jointly financed and used by a school district and another community agency. Reductions are made proportionally to the community share for capital costs;

(d) a voted leeway adopted specifically to reduce class size. The square footage for a building may be reduced by the same percentage as the decrease in teacher-pupil ratios resulting from the voted leeway.

D. If undue hardship or inequities are created through exact application of the standards adopted under this section, a school district may request the Board to make exceptions in individual cases.

E. Schools which do not meet the seventy per cent utilization or the student instructional space standard may be granted exception if:

(1) the school district demonstrates to the satisfaction of the Board that the school is in a projected high student growth area, including inter and intra district student transfers, in which the school is projected to reach seventy per cent utilization within three years' time;

(2) the school is being closed by action of the local board with closure to be accomplished by the end of the following school year; or

(3) the school district demonstrates to the satisfaction of the Board that costs incurred in complying with the standards exceed the costs of continued operation of a facility.

F. District school building plans approved by the Board may not exceed the Utah State Office of Education per student space criteria unless the district has only one elementary school, one junior high or middle school, and one high school.

R277-458-4. Guidelines for Day Care Centers in Public Schools.

A. A school district board may authorize the use of part of a school building for a child care center only if the school is in compliance with Section 53A-17a-142.

B. Establishment of a child care center in a public school building is contingent upon the local school board determining that the center will not interfere with the building's use for regular school purposes.

C. The decision in Subsection (4)(B) shall be made at the sole discretion of the local school board.

KEY: education finance, educational facilities
August 15, 1998
Notice of Continuation April 15, 1997

Art X Sec 3
53A-1-401(3)
53A-17a-142

W.

Section 58-56 Utah Code Annotated—Uniform Building Standards Act

CHAPTER 56
UNIFORM BUILDING STANDARDS ACT

Section

58-56-1. Short title.
58-56-2. Chapter administration.
58-56-3. Definitions.
58-56-4. Definitions - Adoption of building codes - Amendments - Exemptions.
58-56-5. Building Code Commission - Composition of commission - Commission duties and responsibilities.
58-56-6. Building codes - Division duties and responsibilities.
58-56-7. Code amendments - Commission recommendations - Division duties and responsibilities.
58-56-8. Compliance with codes - Responsibility for inspections - Appeals.
58-56-8.5. Building Inspector Licensing Board.
58-56-9. Qualifications of inspectors - Contract for inspection services.
58-56-10. Repealed.
58-56-11. Standards for specialized buildings.
58-56-12. Factory built housing units.
58-56-13. Modular units.
58-56-14. Modification of factory built housing units and modular units.
58-56-15. Factory built housing and modular units - Division responsibility.
58-56-16. Registration of dealers - Bonding requirements - Renewal - Exemptions - Discipline.
58-56-17. Fees on sale - Escrow agents - Sales tax.
58-56-17.5. Factory Built Housing Fees Restricted Account.
58-56-18. Repealed.

58-56-1. Short title.

This chapter is known as the "Utah Uniform Building Standards Act."

History: C. 1953, 58-54-1, enacted by L. 1989, ch. 269, § 4; recodified as C. 1953, 58-56-1.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R156-56.

Compiler's Notes. - This chapter was enacted as Chapter 54 by Laws 1989, ch. 269, but was recodified as Chapter 56 by the Office of Legislative Research and General Counsel, as another Chapter 54 was enacted in 1989.

COLLATERAL REFERENCES

Am. Jur. 2d. - 13 Am. Jur. 2d Buildings § 2 et seq.

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58-56-2. Chapter administration.

The provisions of this chapter shall be administered by the Division of Occupational and Professional Licensing.

History: C. 1953, 58-54-2, enacted by L. 1989, ch. 269, § 5; recodified as C. 1953, 58-56-2.

58-56-3. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "ANSI" means American National Standards Institute, Inc.

(2) "Code(s)" means the NEC, building code, mechanical code, or plumbing code as defined in this section and as applied in context.

(3) "Commission" means the Uniform Building Code Commission created under this chapter.

(4) "Compliance agency" means an agency of the state or any of its political subdivisions which issue permits for construction regulated under the codes, or any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes.

(5) "Factory built housing" means manufactured homes or mobile homes.

(6) "HUD code" means the Federal Manufactured Housing Construction and Safety Standards Act.

(7) "Installation standard" means the standard adopted and published by the National Conference of States on Building Codes and Standards (NCSBCS), for the installation of manufactured homes titled "The Standard for Manufactured Home Installations," the accompanying manufacturer's instructions for the installation of the manufactured home, or such equivalent standard as adopted by rule.

(8) "Local regulator" means each political subdivision of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

(9) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. All manufactured homes constructed on or after June 15, 1976, shall be identifiable by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

(10) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis. The scope of the work included under the license includes the placement and or securing of the factory built housing on a permanent or temporary foundation, securing the units together if required, and connection of the utilities to the factory built housing unit, but does not include site preparation, construction of a

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permanent foundation, and construction of utility services to the near proximity of the factory built housing unit. If a dealer is not licensed as a factory built housing set up contractor, that individual must subcontract the connection services to individuals who are licensed by the division to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(11) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(12) "Modular unit" means a structure built from sections which are manufactured in accordance with the construction standards adopted pursuant to Section 58-56-4 and transported to a building site, the purpose of which is for human habitation, occupancy, or use.

(13) "NEC" means the National Electrical Code.

(14) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(15) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

(16) "Unlawful conduct" is as defined in Subsection 58-1-501(1) and includes:

(a) engaging in the sale of factory built housing without being registered with the division as a dealer, unless the sale is exempt under Section 58-56-16; and

(b) selling factory built housing within the state as a dealer without collecting and remitting to the division the fee required by Section 58-56-17.

(17) "Unprofessional conduct" is as defined in Subsection 58-1-501(2) and includes:

(a) any nondelivery of goods or services by a registered dealer which constitutes a breach of contract by the dealer;

(b) the failure of a registered dealer to pay a subcontractor or supplier any amounts to which that subcontractor or supplier is legally entitled; and

(c) any other activity which is defined as unprofessional conduct by division rule in accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

History: C. 1953, 58-54-3, enacted by L. 1989, ch. 269, § 6; recodified as C. 1953, 58-56-3; L. 1990, ch. 293, § 28; 1993, ch. 252, § 1; 1993, ch. 297, § 268; 1995, ch. 218, § 3; 1999, ch. 42, § 1.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, deleted former Subsections (7), (8), (18), (19), and (21), defining certain standard-setting bodies and their uniform codes, changed "UBC, UMC, or UPC" to "building code, mechanical code, or plumbing code" in Subsection (2), and made related and stylistic changes.

The 1999 amendment, effective May 3, 1999, made minor stylistic changes in the introductory clause of Subsection (16) and added Subsection (17).

58-56-4. Definitions - Adoption of building codes - Amendments - Exemptions.

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(1) As used in this section:

(a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals, for the purpose of commercial food production;

(b) "not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(i) maintenance and repair; and

(ii) the care of livestock, crops, or equipment intended for agricultural use which are kept there; and

(c) "residential area" means land that is not used for an agricultural use and is:

(i) (A) within the boundaries of a city or town; and

(B) less than five contiguous acres;

(ii) (A) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27, Part 8, Subdivision; and

(B) less than two contiguous acres; or

(iii) not located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agricultural Protection Area.

(2) Subject to the provisions of Subsections (4) and (5), the following are adopted as the construction standards to which the state and each political subdivision of this state shall adhere in building construction, alteration, remodeling and repair, and in the regulation of building construction, alteration, remodeling and repair:

(a) a building code promulgated by a nationally recognized code authority;

(b) the National Electrical Code promulgated by the National Fire Protection Association;

(c) a plumbing code adopted by a nationally recognized code authority; and

(d) a mechanical code promulgated by a nationally recognized code authority.

(3) The division, in collaboration with the commission, shall adopt by rule the edition of the NEC or code and specific edition of the codes described in Subsections (2)(a), (c), and (d) to be used as the standard and may adopt by rule successor editions of any adopted code.

(4) The division, in collaboration with the commission, may adopt amendments to the adopted codes to be applicable to the entire state or within a political subdivision only in accordance with Section 58-56-7.

(5) (a) Except in a residential area, a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempted from the permit requirements of any building code adopted by the division.

(b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing, electrical, and mechanical permits may be required when that work is included in the structure.

History: C. 1953, 58-54-4, enacted by L. 1989, ch. 269, § 7; recompiled as C. 1953, 58-56-4; 1995, ch. 218, § 4; 1996, ch. 225, § 1; 1998, ch. 13, § 58; 1998, ch. 351, § 1.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R156-56.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, deleted "Except as provided in Section 58-56-10" from Subsection (1); rewrote Subsections (1)(a), (c), and (d), which had listed "the Uniform Building Code as promulgated by the ICBO," "the Uniform Plumbing Code as adopted by IAPMO,"

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and "the Uniform Mechanical Code as promulgated by the ICBO and IAPMO"; and made related and stylistic changes.

The 1996 amendment, effective July 1, 1996, added Subsections (1) and (5) making related redesignation and reference changes.

The 1998 amendment by ch. 13, effective May 4, 1998, updated the internal reference in Subsection (3).

The 1998 amendment by ch. 351, effective May 4, 1998, divided Subsection (1)(b), adding the (i) and (ii) designations; added Subsection (1)(c); made an internal reference change in Subsection (3); divided Subsection (5), adding the (a) and (b) designations; and made related and stylistic changes throughout the section.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

NOTES TO DECISIONS

Cited in Gillies v. Utah County, 765 F. Supp. 692 (D. Utah 1991).

58-56-5. Building Code Commission - Composition of commission - Commission duties and responsibilities.

(1) There is established a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes under this chapter.

(2) The commission shall be appointed by the executive director who shall submit his nominations to the governor for confirmation or rejection. If a nominee is rejected, alternative names shall be submitted until confirmation is received. Following confirmation by the governor, the appointment shall be made.

(3) The commission shall consist of eleven members who shall be appointed in accordance with the following:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction Management, Department of Administrative Services.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

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(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) No commission member may serve more than two full terms, and no commission member who ceases to serve may again serve on the commission until after the expiration of two years from the date of cessation of service.

(7) A majority of the commission members shall constitute a quorum and may act on behalf of the commission.

(8) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

(9) The commission shall annually designate one of its members to serve as chair of the commission. The division shall provide a secretary to facilitate the function of the commission and to record its actions and recommendations.

(10) The duties and responsibilities of the commission are to:

(a) recommend to the director the adoption by rule of the edition of the NEC, and the specific codes and editions of the codes described in Subsections 58-56-4(2)(a), (c) and (d) adopted pursuant to this chapter;

(b) recommend to the director the adoption by rule of amendments to the NEC, the building code, the mechanical code, and plumbing code adopted pursuant to this chapter;

(c) offer an opinion regarding the interpretation of or the application of any of the codes adopted pursuant to this chapter upon a formal submission by a party to the matter in question which submission must clearly state the facts in question, the specific code citation involved and the position taken by all parties;

(d) act as an appeals board as provided in Subsection 58-56-8(3);

(e) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to building code matters, including a committee to advise the

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commission regarding health matters related to the UPC; and

(f) assist the division in overseeing code related training in accordance with Section 58-56-9.

History: C. 1953, 58-54-5, enacted by L. 1989, ch. 269, § 8; recodified as C. 1953, 58-56-5; 1995, ch. 218, § 5; 1996, ch. 225, § 2; 1996, ch. 243, § 112; 1998, ch. 13, § 59; 1998, ch. 351, § 2.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, changed "UBC, UMC, and UPC" to "the specific codes and editions of the codes described in Subsections 58-56-4(1)(a), (c) and (d)" in Subsection (9)(a), changed the same phrase to "the building code, the mechanical code, and plumbing code" in Subsection (9)(b), and made related changes.

The 1996 amendment by ch. 243, effective April 29, 1996, rewrote Subsection (4), revising provisions relating to terms of members; added Subsection (5); deleted former Subsection (7), relating to per diem and expenses; added Subsection (8), and made appropriate redesignations of subsections.

The 1996 amendment by ch. 225, effective July 1, 1996, in Subsection (3) substituted "eleven" for "nine"; in Subsection (3)(b) substituted "licensed building inspector" for "building official"; in Subsection (3)(f) substituted "three members" for "one member" and added the language beginning "of which one shall" at the end; in Subsection (3)(g) substituted "industry or real estate development industry" for "trades"; and in Subsection (3)(h) substituted "Division of Facilities Construction Management, Department of Administrative Services" for "State Building Board."

The 1998 amendment by ch. 13, effective May 4, 1998, made two stylistic changes in Subsection (4), and updated the reference in Subsection (10)(a).

The 1998 amendment by ch. 351, effective May 4, 1998, made two stylistic changes in Subsection (4), and and internal reference change in Subsection (10)(a).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

58-56-6. Building codes - Division duties and responsibilities.

(1) The division shall administer the adoption and amendment of the NEC, the building code, the mechanical code, and the plumbing code adopted under Section 58-56-4 pursuant to this chapter; but, shall have no responsibility or duty to conduct inspections to determine compliance with the codes, issue permits, or assess building permit fees.

(2) Administration of the NEC, the building code, the mechanical code, and the plumbing code adopted under Section 58-56-4 by the division shall include:

(a) receiving recommendations from the commission and thereafter adopting by rule the editions of the codes and amendments to the codes;

(b) maintaining and publishing for reference on a current basis the editions of the code in force and amendments thereto; and

(c) receiving requests for amendments and opinions from the commission, scheduling appropriate hearings and publishing the amendments to the codes and the opinions of the commission with respect to interpretation and application of the codes.

History: C. 1953, 58-54-6, enacted by L. 1989, ch. 269, § 9; recodified as C. 1953, 58-56-6; 1995, ch. 218, § 6.

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Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R156-56.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, changed "UBC, UMC, and UPC" to "the building code, the mechanical code, and the plumbing code adopted under Section 58-56-4" in Subsections (1) and (2).

58-56-7. Code amendments - Commission recommendations - Division duties and responsibilities.

(1) The division, with the commission, shall establish by rule the procedure and manner under which requests for amendments to codes shall be:

(a) filed with the division; and

(b) recommended or declined for adoption.

(2) The division shall accept from any local regulators, state regulators, state agencies involved with the construction and design of buildings, the contractors, plumbers, or electricians licensing boards, or from recognized construction-related associations a request for amendment to the NEC, the building code, the mechanical code, or the plumbing code adopted under Section 58-56-4.

(3) The division or the commission on its own initiative may make recommendations to the commission for amendment to the NEC, the building code, the mechanical code, or the plumbing code adopted under Section 58-56-4.

(4) On May 15 and November 15 of each calendar year, or the first government working day thereafter if either date falls on a weekend or government holiday, the division shall convene a public hearing, as a part of the rulemaking process, before the commission concerning requests for amendment of the codes, recommended by the division and commission to be adopted by rule. The hearing shall be conducted in accordance with the rules of the commission.

(5) Within 15 days following completion of the hearing under Subsection (4) or (5), the commission shall provide to the division a written recommendation concerning each amendment.

(6) The division shall consider the recommendations and promulgate amendments by rule in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act and as prescribed by the director.

(7) The decision of the division to accept or reject the recommendation of the commission shall be made within 15 days after receipt of the recommendation.

(8) All decisions of the division pertaining to adoption of a code edition or amendments to any code, which are contrary to recommendations of the commission, may be overridden by a two-thirds vote of the commission according to a procedure to be established by rule.

(9) (a) Amendments with statewide application:

(i) shall be effective on the January 1 or July 1 immediately following the public hearing; or

(ii) may be effective prior to the dates in Subsection (i) if designated by the division and the commission as necessary for the public health, safety, and welfare.

(b) Amendments with local application only shall be effective on a date to be determined by the division and the commission.

(c) In making rules required by this chapter, the division shall comply with the provisions of

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Title 63, Chapter 46a, Administrative Rulemaking Act, the provisions of that chapter shall have control over this section in case of any conflict.

History: C. 1953, 58-54-7, enacted by L. 1989, ch. 269, § 10; recodified as C. 1953, 58-56-7; 1995, ch. 218, § 7; 1996, ch. 225, § 3; 1998, ch. 13, § 60.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, changed "UBC, UMC, and UPC" to "the building code, the mechanical code, or the plumbing code adopted under Section 58-56-4" in Subsections (1) and (2) and made a minor stylistic change.

The 1996 amendment, effective July 1, 1996, added Subsections (1), (9), and (10), redesignating the other subsections accordingly; in Subsection (2) substituted "construction-related" for "contractor"; rewrote Subsection (4); in Subsection (5) added "under Subsection (4) or (5)"; and in Subsection (7) substituted "after receipt" for "of the receipt."

The 1998 amendment, effective May 4, 1998, deleted former Subsection (10) which read: "The commission shall study the necessity of an engineer's stamp on all building permits. This study shall be reported to the Business and Labor Interim Committee by November 1996."

58-56-8. Compliance with codes - Responsibility for inspections - Appeals.

(1) The responsibility for inspection of construction projects and enforcement of compliance with provisions of the codes shall be with the compliance agency having jurisdiction over the project and the applicable codes.

(2) A finding by a compliance agency that a licensed contractor, electrician, or plumber has materially violated the provisions of a code in a manner to jeopardize the public health, safety, and welfare and failed to comply with corrective orders of the compliance agency shall be furnished in writing to the division by the compliance agency. It is the responsibility of the compliance agency to conduct a primary investigation to determine that, in fact, there has been a material violation of the provisions of the code jeopardizing the public interest and provide the report of investigation to the division.

(3) Each compliance agency shall establish a method of appeal by which a person disputing the application and interpretation of a code may appeal and receive a timely review of the disputed issues in accordance with provisions of the National Electrical Code, the building code, the mechanical code, or the plumbing code adopted under Section 58-56-4. If a compliance agency refuses to establish a method of appeal, the commission shall act as the appeals board and conduct a hearing within 45 days. The findings of the commission shall be binding. An appeals board established under this section shall have no authority to interpret the administrative provisions of the codes nor shall the appeals board be empowered to waive requirements of the codes.

History: C. 1953, 58-54-8, enacted by L. 1989, ch. 269, § 11; recodified as C. 1953, 58-56-8; 1995, ch. 218, § 8; 1996, ch. 79, § 71.

Amendment Notes. - The 1995 amendment, effective May 1, 1995, changed "the UBC, UMC, NEC, and UPC" to "the UBC, the building code, the mechanical code, or plumbing code adopted under Section 58-56-4" in Subsection (3).

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The 1996 amendment, effective April 29, 1996, substituted "National Electrical Code" for "UBC" in Subsection (3).

NOTES TO DECISIONS

Violation as basis for negligence claim.

Violation of safety standards is a violation of a statutory duty of care owed by the owner of electrical installations to the public lawfully on the land containing the installations, entitling those persons to recover in negligence for injuries proximately caused by such violations; one lawfully hunting on another's land and injured when he stepped on a sagging power line was within class protected by statute despite contention he was not using the electrical installation in the use for which it was intended. Madison v. Deseret Livestock Co., 574 F.2d 1027 (10th Cir. 1978).

58-56-8.5. Building Inspector Licensing Board.

(1) There is created a Building Inspector Licensing Board consisting of four building inspectors and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 through 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

History: C. 1953, 58-56-8.5, enacted by L. 1995, ch. 262, § 1.

Effective Dates. - Laws 1995, ch. 262 became effective on May 1, 1995, pursuant to Utah Const., Art. VI, Sec. 25.

58-56-9. Qualifications of inspectors - Contract for inspection services.

(1) Effective July 1, 1993, all inspectors employed by a local regulator, state regulator, or compliance agency to enforce provisions of the codes adopted pursuant to this chapter shall:

(a) meet minimum qualifications as established by the division in collaboration with the commission or be certified by a nationally recognized organization which promulgates codes adopted under this chapter, or pass an examination developed by the division in collaboration with the commission;

(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to revocation or suspension of their license or may be placed on probation if found guilty of unlawful or unprofessional conduct.

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(2) A local regulator, state regulator, or compliance agency may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) (a) The division shall use the monies received in Subsection (4) to provide education regarding the codes and code amendments to:

(i) building inspectors; and

(ii) individuals engaged in construction-related trades.

(b) All funding available for the building inspector's education program shall be nonlapsing.

(4) Each compliance agency shall charge a 1% surcharge on all building permits issued and shall transmit 80% of the amount collected to the division to be utilized by the division to fulfill the requirements of Subsection (3). The surcharge shall be deposited as a dedicated credit.

History: C. 1953, 58-54-9, enacted by L. 1989, ch. 269, § 12; recodified as C. 1953, 58-56-9; L. 1990, ch. 293, § 29; 1991, ch. 52, § 3; 1996, ch. 225, § 4.

Amendment Notes. - The 1996 amendment, effective July 1, 1996, added Subsection (3)(a), redesignating former Subsection (3)(a) as (3)(a)(i); added Subsections (3)(a)(ii) and (3)(b), making a related redesignation and reference change; and rewrote Subsections (3)(a)(i) and (4).

58-56-10. Repealed.

Repeals. - Laws 1995, ch. 218, § 9 repeals former § 58-56-10, as enacted by Laws 1989, ch. 269, § 13, giving effect to certain amendments of the uniform codes made before 1989, effective May 1, 1995.

58-56-11. Standards for specialized buildings.

(1) This chapter shall not be implied to repeal or otherwise affect authorities granted to a state agency to make or administer standards for specialized buildings, as provided in Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act, Title 26, Chapter 39, Utah Child Care Licensing Act, Title 62A, Chapter 2, Licensure of Programs and Facilities, and Title 64, Chapter 13, Department of Corrections - State Prison, or authorities granted to a state agency by statute to make or administer other special standards. In the event of a conflict between such special standards and codes adopted pursuant to this chapter, the special standards shall prevail.

(2) The provisions of this chapter do not apply to the administration of the statutes described in Subsection (1).

History: C. 1953, 58-54-11, enacted by L. 1989, ch. 269, § 14; recodified as C. 1953, 58-56-11; 1997, ch. 196, § 16.

Amendment Notes. - The 1997 amendment, effective July 1, 1997, in Subsection (1) added "Health Care Facility Licensure and Inspection Act, Title 26, Chapter 39, Utah Child Care Licensing Act," "Licensure of Programs and Facilities," and "Department of Corrections - State Prison."

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X.

Administrative Rule R277-451— State School Building Program

R277. Education, Administration.

R277-451. The State School Building Program.

R277-451-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "ADM" means Average Daily Membership of students.

C. "Capital Outlay Foundation Program" means a program that provides a minimum dollar generation guarantee, per ADM, for every district willing to levy a tax of. 0024 per dollar of taxable value on real property.

D. "Emergency school building needs distribution " means a program that utilizes twenty percent of the money made available through the Public Education Capital Outlay Act pursuant to Sections 53A-21-101 through 53A-21-105.

E. "Students in alternative housing" means additional students other than those who can be appropriately accommodated in existing buildings and programs, who have been accommodated through year-round scheduling, extended day scheduling, double session scheduling, portable buildings, contracting out for additional space or busing to other districts.

F. "Assessed valuation" means the assessed value of real property certified by the State Tax Commission to the Board each year.

G. "Derived assessed valuation" means current collections of tax levy (no prior year penalties or redemptions) divided by the same year tax rates.

H. "Need" means growth and the number of students in alternative housing.

I. "Growth" means:

(1) a district's percent increase of students annually from October 1 to October 1, in the past three years as compared to the total student increase of the state; and

(2) a district's percent increase of students compared to its own number of students.

J. "Effort" means:

(1) the prior three year average of total district tax levy, and

(2) the total funds used by a district to meet bond and interest payments as a percentage of the money raised during the prior three years from the .0024 tax rate levied for capital outlay and debt service.

K. "Foundation level" means [~~a base amount per ADM guaranteed~~]the guaranteed pro-rated amount per ADM to the extent of funds available distributed to school districts by the Board.

L. "Ability" means a school district's prior three year average derived assessed valuation per ADM.

M. "Loan" means a transaction which takes money from a Board account and places it in a school district account with the full legal intention by a school district that it be repaid to the account from which it was taken.

N. "Accounts receivable" means any amount due the Board from a school district for which payment has not been received by the Board.

O. "Fiscal year (FY)" means the twelve month period from July 1 through June 30 during which state funds are distributed.

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P. "Superintendent" means the State Superintendent of Public Instruction.

Q. "USOE" means the Utah State Office of Education.

R277-451-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Sections 53A-19-101 through 105 which direct local school boards to develop budgets, provide for appropriate plans to be filed with the Superintendent and maintain reserves consistent with the law; Sections 53A-21-102 and 53A-21-104 which direct the Board to provide financial assistance to school districts to meet critical school building and debt service needs and provide standards toward that end, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the eligibility requirements and the procedures for distributing funds appropriated for the capital outlay foundation program, the emergency school building needs program and for providing short-term loans to districts for capital outlay projects in school building construction and renovation.

R277-451-3. Capital Outlay Foundation Program.

A. A district may receive state school building funds under the capital outlay foundation program established in Section 53A-21-102(1) if the amount raised by levying a tax rate of .0024 does not generate revenues above the foundation level established per ADM when the legislative appropriation is entered into the formula.

B. To qualify for capital outlay foundation funds, a school district shall levy a property tax rate up to 0.002400 designated specifically for capital outlay and debt service:

(1) school districts levying less than the full 0.002400 tax rate for capital outlay and debt service shall receive proportional funding under the capital foundation program based upon the percentage of the 0.002400 tax rate levied by the district;

(2) the amount of capital foundation funds to which a school district would otherwise be entitled under the Capital Outlay Foundation program may not be reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation for a period of two tax years from the effective date of any such change in the certified tax rate.

C. The USOE shall support the foundation program to assist the qualifying district in reaching the foundation level.

D. Eighty percent of the funds appropriated by the Legislature under Section 53A-21-105 shall be [~~used in calculating~~] the foundation level through fiscal year 2001.

E. In fiscal year 2002, 100 percent of the funds appropriated by the Legislature under Section 53A-21-105 shall be [~~used in calculating~~] the foundation level.

R277-451-4. Emergency School Building Needs Program.

A. A district may receive state school building funds under the emergency school building needs program under Section 53A-21-

103(4)(a) by meeting the qualifying criteria of need, effort and ability.

B. Calculation to determine a district's eligibility and the distribution amount for the emergency building needs program shall be made based on a statistical formula provided by the USOE Director of Finance or his designee.

C. Through fiscal year 2001, twenty percent of the funds appropriated by the Legislature in Section 53A-21-105 shall be [~~used in calculating~~] the emergency school building needs program funds.

D. On June 30, 2001, this program shall cease to exist and all funds appropriated by the Legislature in Section 53A-21-105 shall be used in the capital outlay foundation program.

R277-451-5. Capital Outlay Loan Program.

A. A district may receive capital outlay loan program funds under Section 53A-21-102 which establishes a capital outlay loan program to provide short-term help to districts, for a period not to exceed five years, for school building construction and renovation.

B. To be a priority qualifier for the capital outlay loan program, a district shall meet all of the following requirements:

(1) demonstrate an ability and commitment as demonstrated by a local board vote to set the levy at the rate needed to repay the loan within the time period prescribed by the loan agreement; and

(2) levy a tax rate for capital outlay and debt service above the state average; and

(3) demonstrate a district need that is better met through the loan fund than through more traditional means for providing school building construction or renovation or both.

C. If a district does not meet the criteria for a priority qualifier and the needs of the priority qualifiers are met, the loan application of districts not meeting this criterion may be considered, if the district commits to levying at or above the state average for the next tax year. In the case of a natural disaster or other emergency, this requirement may be waived by the Superintendent.

D. A district applying for a short term loan under this rule shall make a formal application which includes:

(1) the emergency condition or the condition that exists that would be better met through the loan fund rather than through more traditional means for providing school building construction or renovation or both;

(2) the amount of loan sought;

(3) the proposed repayment schedule, not to exceed five years;

(4) the history of the last five years of loans or special supplementary funds received by the district from the USOE;

(5) minutes of the local board meeting recording the affirmative vote to levy the needed tax; and

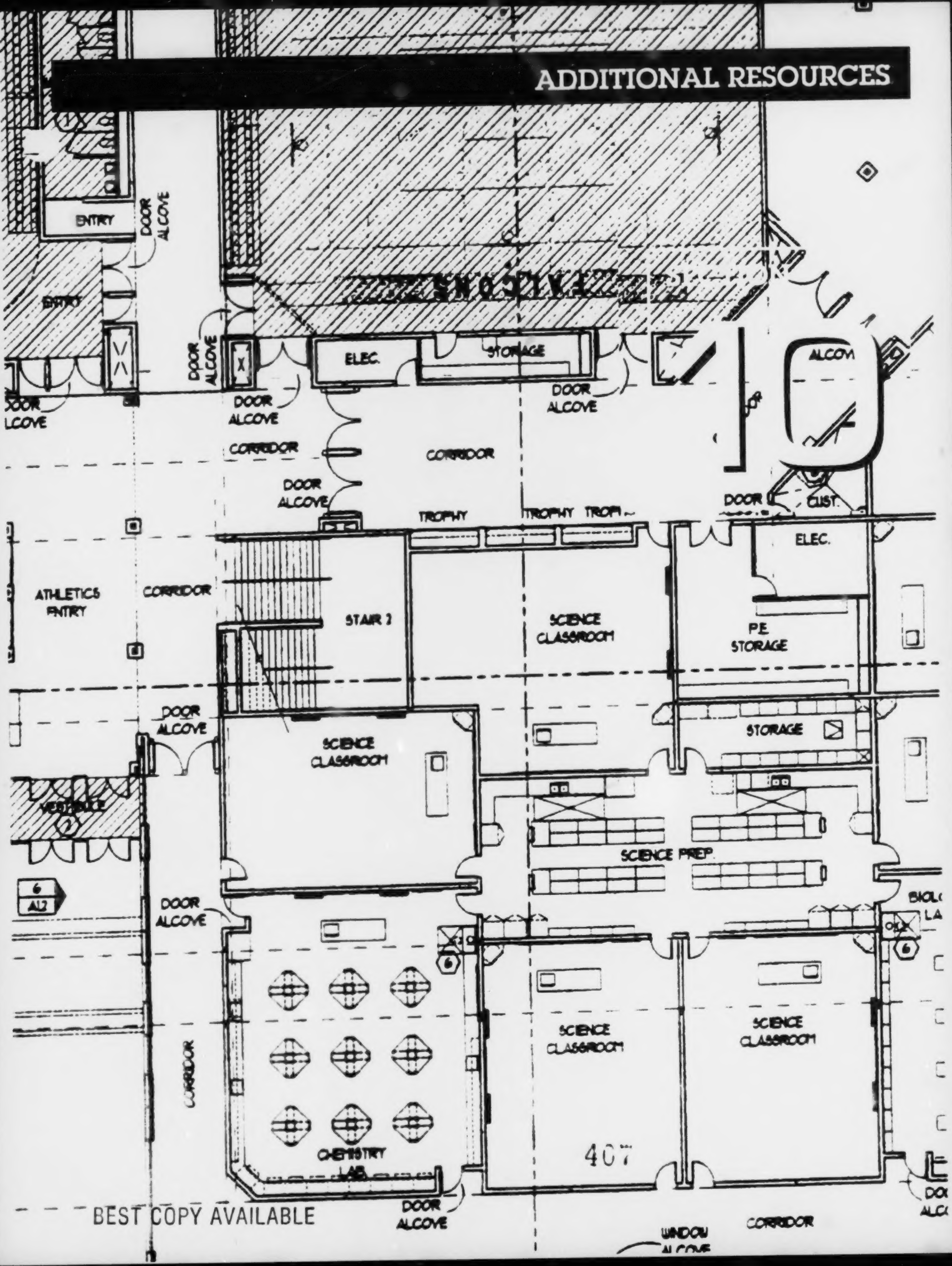
(6) a signed agreement that if the district should default on a loan payment, the Superintendent may deduct the loan payment and added interest from the calculated per district state distribution after 90 days.

E. The loan request and repayment conditions shall be approved by the Superintendent or his designee.

KEY: educational facilities, education finance

1999

Art X Sec 3
53A-19-101 through 105
53A-21-102
53A-21-104
53A-1-401(3)
59-2-924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10. Additional Resources

Statewide Building Code Classes:

Presented via EdNet and co-sponsored by the Utah State Department of Occupational and Professional Licensing (DOPL).

Contact: Ernie Perkins, (801) 593-2357, Davis Applied Technology Center, 550 East 300 South, Kaysville, UT 84037, (801) 593-2549.

Geotechnical Engineering Experts Now Listed on the Internet:

Firms and individuals who are providing expert witness services in geotechnical, environmental and civil engineering and the geosciences are now listed on the ASFE (Associated Soil and Foundation Engineers) web site at: [http://www.asfe.org]. Use of the web site is free of charge. Firms and individuals are listed alphabetically by state and nation.

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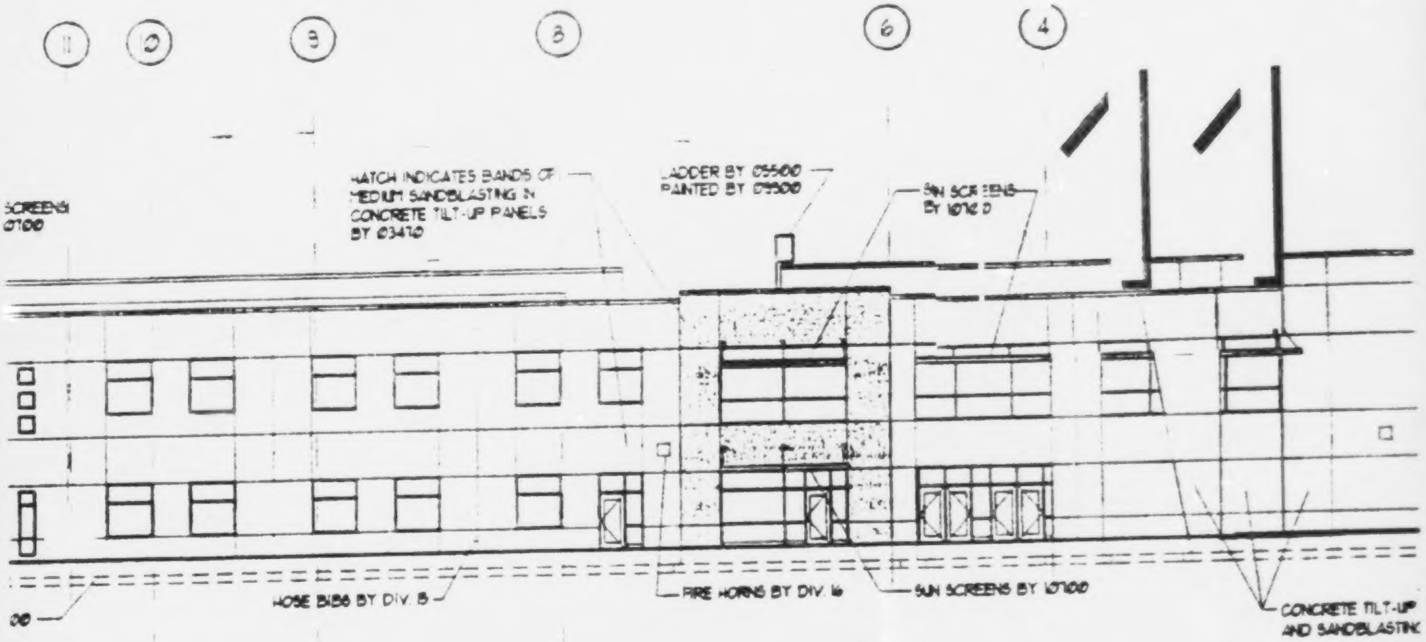
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SUN SCREENS BY 10700
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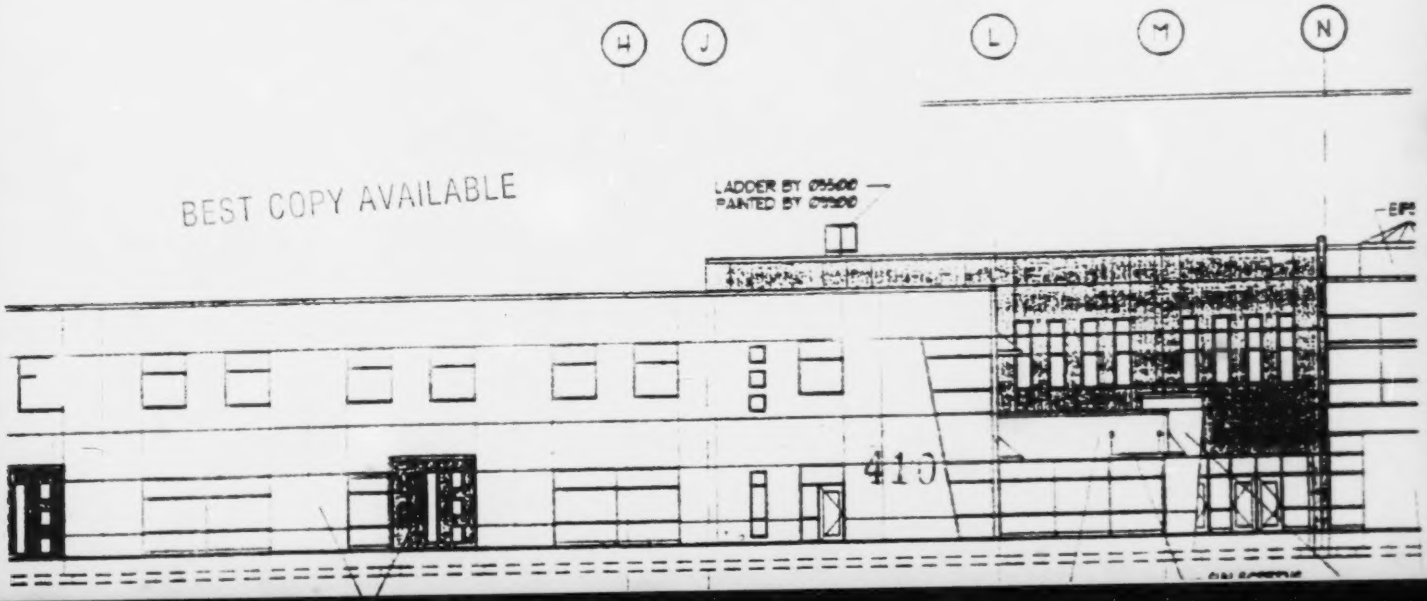
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11. Appendices

Appendix A
Building Inspector List
from
Utah State Department of Commerce
February 2, 1999

Appendix A
Building Inspector List
from
Utah State Department of Commerce
February 2, 1999

OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	93-179531-5607	Adams, David Mack	69 Meadowview Cir		Heber City	UT	84032	III-NBC
	97-113930-5607	Adams, Lisle G	117 S Main	P O Box 787	Monticello	UT	84535	III-UBC,UPC,UMC
	93-264376-5607	Ahrensbach, Robert Kelly	1787 S 2000 W		Syracuse	UT	84075	I-Combination
	96-189153-5607	Akhavan, Mahmood	1459 E 1100 N		Logan	UT	84341	I-NBC
	96-122604-5607	Allen, Curt V	2001 S State St Ste N-3600		Salt Lake City	UT	84102	I-UBC,UPC,UMC
	94-160990-5607	Allen, Reid C	6920 S 400 W		Midvale	UT	84047	I-NBC
	93-261273-5607	Allred, Alvin Earl	71 SOUTH QUIRK		Grantsville	UT	84029	III/I-UBC
	96-118537-5607	Allred, Arthur Clyde	725 Monte Blanco		Salt Lake City	UT	84123	III-UBC,UMC/I-NBC,UPC
	93-263952-5607	Allred, Jack Earl	PO Box 631		Grantsville	UT	84029	I-Combination
	98-358560-5607	Altheide, John William	P O Box 410083		Big Water	UT	84741	III-Combination
	93-268897-5607	Anderson, Bryant	75 E Main - Courthouse	P O Box 417	Castle Dale	UT	84513	III-NBC,UBC/I-UPC,UMC
	96-317848-5607	Anderson, Gilbert L	391 E 920 N		American Fork	UT	84003	I-Combination
	97-341718-5607	Ashton, Paul Karl	56 N State St		Orem	UT	84057	I-Combination
	94-277052-5607	Atkinson, Boyd Curtis	4840 Quailstone Cir		Salt Lake City	UT	84118	I-UBC,UPC,UMC
	96-301829-5607	Averett, Ashley H	111 S Main		La Verkin	UT	84745	III-UPC,UMC
	93-265295-5607	Averett, Eric A	Summit County	Box 128	Coalville	UT	84017	I-UBC,UPC,UMC
	93-264033-5607	Bailey, William Allen	8000 S. Redwood Rd 2nd Fl		West Jordan	UT	84088	I-Combination
	93-264379-5607	Ball, Scott C	Riverton City Corp	12765 South 1400 West	Riverton	UT	84065	III/I-UBC
	97-335412-5607	Baptist, Gregory Michael	139 W Mond St		Ogden	UT	84404	I-UBC
	93-161040-5607	Barker, Ammon L	P O Box 116		Henrieville	UT	84736	I-Combination
	94-126104-5607	Barnes, Paul Virgil	2565 North Morgan Valley		Morgan	UT	84050	I-NBC
	93-106970-5607	Barnett, Robert Edward	3827 S 7040 W		West Valley	UT	84128	I-NBC
	93-264598-5607	Barrett, Michael Gary	7766 Strawberry Lp		West Jordan	UT	84084	I-Combination
	93-158422-5607	Barrus, Craig Stephen	1291 North Jordan Avenue		Provo	UT	84604	I-NBC,UMC
	93-264372-5607	Bass, Lee Albert	Park City Municipal Corp	445 Marsac Ave	Park City	UT	84060	I-Combination
	94-278291-5607	Bates, Charles Robert	4040 S 1535 W #24-C		Salt Lake City	UT	84123	III-UBC,NBC
	93-267295-5607	Bauer, Paul Earl	Layton City Corp.	437 North Wasatch Drive	Layton	UT	84041	I-UBC,NBC,UMC
	93-265697-5607	Bauman, Joseph J	J. Bauman Construction	1764 28th	Ogden	UT	84403	III-Combination
	93-267573-5607	Beagles, James H	Brigham Young University	234 BRWB	Brigham Young Univ	UT	84602	I-UBC,UPC
	93-264083-5607	Beal, Vern L	Murray City Corp	4646 South 500 West	Murray	UT	84123	III/I-UPC,UMC
	93-265891-5607	Beardall, Gary Leon	Orem City	56 North State Street	Orem	UT	84057	I-Combination
	97-132419-5607	Beckstrand, Gary A	1737 E 2100 S		Salt Lake City	UT	84106	I-NBC
	93-265000-5607	Behunin, Robert C	Cedar City Corp.	110 North Main	Cedar City	UT	84720	III-UBC,UPC,UMC
	97-278451-5607	Bell, Bill David	56 N State St		Orem	UT	84057	I-Combination
	93-185771-5607	Bench, Steven Douglas	862 S 1000 W		Tremonton	UT	84337	I-Combination
	93-265118-5607	Bender, Daniel Marc	3044 Camino Limero		Carlsbad	CA	92009	I-Combination
	93-265580-5607	Bennett, Robert N	PO Box 893		Price	UT	84501	III/I-UBC,NBC
	96-331359-5607	Berntson, Paul C	179 N Main St No 19		Logan	UT	84321	III-UBC/I-NBC,UPC,UMC
	93-263818-5607	Beutler, Brent A	Salt lake City Corp	451 South State Street	Salt Lake City	UT	84111	I-UBC
	93-264597-5607	Bezzant, Douglas G	376 S Locust Ave		Pleasant Grove	UT	84062	I-Combination
	93-265581-5607	Blackham, Mike K	Kaysville City	23 East Center	Kaysville	UT	84037	I-Combination
	97-179959-5607	Blum, Daniel Edward	3348 N 700 W		Pleasant View	UT	84414	I-UMC
	96-324331-5607	Blunt, Craig	1420 E 2850 S		Naples	UT	84078	I-UPC,UMC
	97-346595-5607	Bouck, Mark Richard	P O Box 605		Tooele	UT	84074	I-Combination
	97-317425-5607	Bowthorpe, Kelly	451 S State Rm 406		Salt Lake City	UT	84111	I-UBC,UMC
	97-345295-5607	Boyd, Jeffery Alan	50 W 200 N	Box 212	Mona	UT	84645	I-UBC,UPC
	96-320754-5607	Bracken, Jackson Reid	1423 N 580 W		Orem	UT	84057	I-Combination
	93-264366-5607	Bradfield, Jay Ardell	Tooele County	47 South Main	Tooele	UT	84074	III-NBC,UPC,UMC/I-UBC
	99-369982-5607	Brady, Gordon Calvin	798 Tara Cir		Midvale	UT	84047	III-UBC/I-UPC,UMC
	94-180606-5607	Braegger, Michael DeVon	886 E 200 S		Brigham City	UT	84302	I-NBC,UPC,UMC

BEST COPY AVAILABLE

OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	96-311833-5607	Brannvall, Christian V	105 E Center Street	P O Box 1013	Beaver	UT	84713	III-Combination
	93-265296-5607	Broadbent, Fred	Summit County	P.O. Box 128	Coalville	UT	84017	III-NEC/I-UPC,UBC,UMC
	93-266389-5607	Brown, Allan, L	695 East 3125 North		Ogden	UT	84414	I-Combination
	93-263817-5607	Brown, Kenneth Lee	SLC Corp, Room 215	451 South State Street	Salt Lake City	UT	84111	I-UBC,UMC
	93-265302-5607	Brown, Phillip C	Lindon City	383 West Lakeview Road	Lindon	UT	84042	I-UBC,UPC,UMC
	98-360220-5607	Buchanan, Ric	1008 W Union		Modesto	CA	95356	I-UBC
	93-263022-5607	Buck, Gary Ted	Salt Lake City Corp	451 S State St	Salt Lake City	UT	84111	III-NEC/I-UPC,UBC,UMC
	98-147359-5607	Buhler, Alan Wayne	SLC School Dst.Bldgs & Grounds	143 N 300 West	Salt Lake City	UT	84110	I-NEC
	95-290441-5607	Bullock, Jason M	West Valley City	3601 Constitution Blvd	West Valley City	UT	84119	III-UPC,UMC/I-NEC,UBC
	95-290439-5607	Bullock, Jeanne	1539 FARLEY CIR		Sandy	UT	84092	III-NEC,UMC/I-UPC,UBC
	95-290440-5607	Bullock, Jeremy W	1539 E FARLEY CIR		Sandy	UT	84092	III/I-UBC
	96-331180-5607	Bullock, Jesse T	1539 Farley Cir		Sandy	UT	84092	III-UBC,UMC
	95-311918-5607	Bundy, Corey L	468 Sagaurro		Washington	UT	84780	I-UBC,NEC,UPC
	96-332396-5607	Bunker, David Bruce	117 S Main P O Box 787		Monticello	UT	84535	III-UBC,UPC,UMC
	97-157246-5607	Bunot, Douglas S	1648 W 150 S		West Point	UT	84015	I-UPC,UMC
	93-269908-5607	Burbidge, Jeffrey Paul	Alta Town		Alta	UT	84092	I-UBC
	93-263821-5607	Burg, Garry Leo	451 S State St Rm 404		Salt Lake City	UT	84111	III/I-UBC
	93-261368-5607	Burrows, Hal R	1175 S 700 E		Springville	UT	84663	I-Combination
	95-293120-5607	Burton, Michael L	11395 W 10400 N		Thatcher	UT	84337	III-UBC,UPC,UMC
	93-267298-5607	Bush, N Kent	Clearfield City Corp	140 East Center Street	Clearfield	UT	84015	I-Combination
	93-263995-5607	Butcher, Larry	Salt lake City Corp	451 South State St. #215	Salt Lake City	UT	84111	I-UBC,UMC
	97-344418-5607	Butler, L Kent	Box 1480	445 Marsac Avenue	Park City	UT	84060	III-Combination
	97-170619-5607	Butler, Scott W	M/S 502 P O Box 707		Brigham City	UT	84302	I-UPC
	93-265403-5607	Butz, Richard Edward	Summit County	P.O. BOX 128	Coalville	UT	84017	III-NEC,UMC/I-UPC,UBC
	93-263815-5607	Calfa, Enzo	Salt Lake City Corp	451 South State	Salt Lake City	UT	84111	I-UBC
	94-273700-5607	Call, Norman C	Box 64		Randolph	UT	84064	III-UBC,UPC,UMC
	93-261363-5607	Calvert, Tambi Lynn	State Community Services	324 South State, Suite 500	Salt Lake City	UT	84111	II
	94-273805-5607	Cammack, Ronald C	141 E 1st S		Hyrum	UT	84319	III-UBC
	99-370467-5607	Campbell, Cary Edward	90 N Main St		Tooele	UT	84074	I-Combination
	93-264361-5607	Cannon, David Howard	North Salt Lake	20 South Highway 89	North Salt Lake	UT	84054	I-Combination
	95-315446-5607	Carey, Allen H	3299 W 3540 S		West Valley City	UT	84119	III/I-UBC,NEC,UPC
	98-358581-5607	Carlile, Gary Porter	75 N Main		Heber City	UT	84032	III-Combination
	93-264367-5607	Carlile, Richard Verd	Park City Miniciple Corp	445 Marsac Ave	Park City	UT	84060	I-Combination
	95-293977-5607	Carlson, Alvin Eugene	P O Box 1849		Provo	UT	84603	I-UBC
	97-344713-5607	Carpenter, Glenn Ray	4864 N 600 E		Enoch	UT	84720	III-UBC,UPC,UMC
	94-267294-5607	Carrell, Paul R	152 E 100 N	Uintah County	Vernal	UT	84078	III-Combination
	93-263263-5607	Carter, Clint G	Lehi City Corp	99 West Main # 100	Lehi	UT	84043	III-NEC,UBC/I-UPC,UMC
	93-264023-5607	Carter, Rex M	P O Box 152		Beaver	UT	84713	III-UPC/I-UBC
	93-264984-5607	Chadwick, Bradley Dellon	2484 Washington Blvd 2nd Fl	Ogden City	Ogden	UT	84401	I-UBC,UPC
	93-260985-5607	Chase, J Steve	2997 Dimple Dell Ln		Sandy	UT	84092	I-Combination
	98-358260-5607	Chase, John Andrews	255 N Main		Logan	UT	84321	I-Combination
	97-334865-5607	Chesley, Mark Lloyd	11175 South Redwood Road		South Jordan	UT	84095	I-Combination
	93-263980-5607	Christensen, Fred Ortho	205 N 340 W		Payson	UT	84651	I-Combination
	96-318473-5607	Christensen, John Michael	10118 S Kalinda Dr		Sandy	UT	84092	III-UBC
	97-330601-5607	Christensen, Tracy Laurel	40 W 200 N		Manti	UT	84642	III/I-UBC,UPC,UMC
	98-364114-5607	Christiansen, Linda Bowers	40 W 200 N		Manti	UT	84642	III-UBC
	93-265308-5607	Church, Gary G	Millard County	71 S 200 W P O Box 854	Delta	UT	84624	I-Combination
	93-263971-5607	Clark, Brett D	PO Box 624		Tooele	UT	84074	I-Combination
	93-153226-5607	Clark, Randal E	590 Island Road		Morgan	UT	84[illegible]	III-Combination
	97-325295-5607	Clark, Todd Paul	58 N 200 E		Hurricane	UT	84737	III-UBC,UPC,UMC

UTAH STATE Dept of Commerce   Listing : Building Inspectors
Date Run: 02/23/99

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OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	98-359314-5607	Cluff, Charles Alan	56 N State		Orem	UT	84057	I-UBC
	98-362836-5607	Collier, Keith Russell Ben	951 E 970 N		Orem	UT	84097	I-UBC
	93-151365-5607	Collings, Tim	451 South State	Suite 406	Salt Lake City	UT	84111	I-UBC,UPC,UMC
	93-262532-5607	Collins, R David	ROY CITY	5051 SOUTH 900 WEST	Roy	UT	84067	I-Combination
	98-365098-5607	Cook, Steven Clark	1547 E Farley Cir		Sandy	UT	84092	III-UBC,UMC
	96-319767-5607	Coon, Stephen L	Utah State University	Campus Planning and Eng	Logan	UT	84322	I-UPC,UMC
	93-264362-5607	Copeland, Diane	Ogden City Corp.	2484 Washington Blvd	Ogden	UT	84401	I-Combination
	94-272965-5607	Cornelius, William Lee	Provo City	351 West Center Street	Provo	UT	84601	III-UBC
	95-137569-5607	Costanzo, Thomas A	98 W Boulderville Rd		Kamas	UT	84036	I-Combination
	93-264990-5607	Cowan, John L	Brigham Young University	235 ERWB	Provo	UT	84602	I-Combination
	98-270964-5607	Cowdell, Koby G	2540 W Bueno Vista Dr		West Jordan	UT	84088	III-NEC
	99-369983-5607	Cox, Steven Roy	1050 E 800 N Lot 10		Spanish Fork	UT	84660	III-UBC
	93-166933-5607	Crawford, Jay L	1189 E 2950 N		North Ogden	UT	84414	I-UBC,UPC,UMC
	93-261437-5607	Criner, Skip	451 S Stete Rm 406		Salt Lake City	UT	84111	I-UBC,UPC
	93-264494-5607	Croshaw, Kevin Doyle	Logan City	255 North Main	Logan	UT	84321	I-Combination
	97-307515-5607	Crowford, Samuel Scott	6278 W 3500 S		West Valley	UT	84128	III-UBC
	93-140869-5607	Cunningham, Marvin C	440 S 3130 W		Vernal	UT	84078	I-Combination
	93-263820-5607	Cupit, William Henry	Salt lake City Corp	451 South State Street	Salt Lake City	UT	84111	I-UBC
	95-296339-5607	Cutler, Blaine Ross	2380 Washington Blvd Ste 201		Ogden	UT	84401	III-UBC/I-NEC,UPC,UMC
	93-265049-5607	Dabb, Kim Whitney	596 W 950 N		Clinton	UT	84015	I-Combination
	93-263264-5607	Daily, Randall Forrest	Riverdale City Corp	4600 South Weber River Dr.	Riverdale	UT	84405	I-Combination
	97-340525-5607	Darger, David W	25 S Central St P O Box 70		Colorado City	AZ	86021	I-UBC,UPC,UMC
	96-329635-5607	Dashnaw, David I	1883 N 1400 W		Layton	UT	84041	III-UBC
	93-263816-5607	Davies, Don K	Salt lake City Corp	451 South State Street	Salt Lake City	UT	84111	I-Combination
	93-266198-5607	Davis, Ben Fredric	2860 W 7420 S		West Jordan	UT	84084	I-UBC,UPC,UMC
	98-355638-5607	Davis, Charles B	P O Box 1005		Brigham City	UT	84302	III-Combination
	94-275328-5607	Davis, Craig L	P O Box 1013		Beaver	UT	84713	III-NEC,UMC/I-UPC,UBC
	93-263813-5607	Davis, Don B	Cache County Corp	179 North Main #19	Logan	UT	84321	I-Combination
	95-293350-5607	Davis, Marc Lowell	439 W Utah Ave		Payson	UT	84651	I-Combination
	93-148732-5607	Davis, Mark B	4135 N New Ln		Kamas	UT	84036	I-NEC
	94-274527-5607	Davis, Quinn J	530 E 400 N		Heber City	UT	84032	I-Combination
	95-131330-5607	Davis, Ronald James	101 E Mulberry Dr		Henderson	NV	89015	III-NEC,UMC/I-UPC,UBC
	95-294210-5607	Day, Garth B	North Ogden City	505 E 2600 N	North Ogden	UT	84414	III-UBC,UPC,UMC
	96-320699-5607	Dean, George A	255 S State		Roosevelt	UT	84066	I-UMC
	98-356692-5607	Detloff, Vickie Diann	Tooele City Hall	90 N Main St	Tooele	UT	84074	I-Combination
	94-129146-5607	Dever, Wesley George	P O Box 67		Salem	UT	84653	I-UBC
	98-358900-5607	Dibble, Tyler Dale	5142 Fifeshire Pl		Boise	ID	83713	III-UBC
	97-348020-5607	Dickinson, Thomas L	255 N Main		Logan	UT	84321	I-Combination
	93-264519-5607	Domian, Edmund Christopher	West Valley City Corp.	3600 Constitution Blvd	West Valley City	UT	84119	I-Combination
	96-311708-5607	Doran, William A	5738 S Redwood Rd Apt 503		Salt Lake City	UT	84123	III-UPC
	96-172591-5607	Dorsey, Adus Franklin II	P O Box 750125		Torrey	UT	84775	I-NEC
	93-264525-5607	Durfee, Michael G	Salt Lake County	2001 South State St. N3500	S L County Complex	UT	84190	I-Combination
	93-262944-5607	Duzenack, Francis E	PRICE MUNICIPAL CORP	185 EAST MAIN	Price	UT	84501	I-Combination
	94-275279-5607	Earley, John King	1437 E 8850 S		Sandy	UT	84093	I-UBC
	93-266946-5607	Ecker, David Ray	Redmond Town	45 W Main St	Redmond	UT	84652	III-Combination
	93-265892-5607	Efosa, Osazuwa	Salt Lake City Corp.	451 South State #406	Salt Lake City	UT	84111	III-UBC
	94-165669-5607	Elliott, Leland R	Thiokol Corp	PO Box 707 M/S 552	Brigham City	UT	84302	I-UBC
	97-339026-5607	Ellison, Barry L	243 W Aspen Ave		Moab	UT	84532	I-NEC,UMC
	95-290422-5607	Embry, Lloyd P	827 N BENCH RD	BOX 461	Oakley	UT	84055	III-Combination
	93-116262-5607	Empey, Joseph Clark	434 W 500 N		St George	UT	84770	I-Combination

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OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	98-157340-5607	Epperson, Daniel Bruce	4477 S 5665 W		West Valley City	UT	84120	I-NBC
	96-154889-5607	Eriksson, Carl Richard	2001 S State St # N3500		Salt Lake City	UT	84190	I-UBC
	93-266963-5607	Eschler, Roger D	255 S State (36-8)		Roosevelt	UT	84066	I-UBC,UPC,UMC
	98-268283-5607	Evans, Gary L	7441 Halelani Dr		Midvale	UT	84047	I-NBC
	93-263977-5607	Evans, Roger R	Salt Lake City Corp	451 S State St 406	Salt Lake City	UT	84111	I-UBC
	93-266390-5607	Farnes, Robert A	Bountiful City Corporation	790 South 100 East	Bountiful	UT	84010	I-UBC,UPC,UMC
	93-265401-5607	Fawson, Glade R	12118 S 1975 W		Riverton	UT	84065	I-Combination
	97-333972-5607	Felleson, Susanne E	1145 E South Union Ave		Midvale	UT	84047	I-NBC
	93-265607-5607	Fife, Boyd Evan	5296 N Enoch Rd		Cedar City	UT	84720	I-Combination
	94-271623-5607	Fish, Lewis J	65 Springs	Box 182	Toquerville	UT	84774	III-Combination
	93-265588-5607	Fisher, Ronald L	10000 Centennial Pkwy		Sandy	UT	84070	I-Combination
	98-359175-5607	Fitting, Gerald Ray	76 N Main St		Kanab	UT	84741	III-Combination
	96-320250-5607	Flint, Eric D	45 E State St	PO Box 0588	Farmington	UT	84025	I-UBC
	93-264114-5607	Florence, E Ray	6267 Rodeo Ln		Salt Lake City	UT	84121	I-UMC
	95-265584-5607	Fontana, Ernest Michael	10000 Centinnial Parkway		Sandy	UT	84070	III-NBC,UPC/I-UBC,UMC
	93-264991-5607	Formo, Barry Walt	Tooele County Corp	47 South Main	Tooele	UT	84074	I-Combination
	93-264523-5607	Fox, Bruce A	2246 E 3225 N		Layton	UT	84040	I-Combination
	97-345556-5607	Frazier, Jason Allen	876 W 130 N		Orem	UT	84057	III-Combination
	95-156660-5607	French, John	P.O. Box 304		Santaquin	UT	84655	I-UPC
	94-277773-5607	Frenyea, Ted	P O Box 981071	Park City	Park City	UT	84098	I-Combination
	93-263972-5607	Fry, Robert K	4915 S 2870 E		Salt Lake City	UT	84117	I-NBC
	97-304226-5607	Fuchsel, Joseph	365 E 1780 S		Orem	UT	84058	III-UBC
	97-340932-5607	Fyffe, Danny Llewellyn	5684 W Glen Livet Ct		West Valley	UT	84128	III-UBC
	93-268416-5607	Gardner, George Kurt	Washington County	197 East Tabernacle	St George	UT	84770	III/I-UBC,NBC,UMC
	93-158511-5607	Gass, James Patrick	1360 East 1980 North		Logan	UT	84321	III/I-UBC,NBC,UPC
	93-260991-5607	Gerritsen, Reid William	TOOELE CITY	90 N MAIN	Tooele	UT	84074	I-Combination
	97-278712-5607	Gifford, Lance R	41 S 500 W		La Verkin	UT	84745	III-NBC,UBC/I-UPC,UMC
	94-274025-5607	Glines, Gary Lloyd	3600 S. Constitution Blvd		West Valley City	UT	84119	I-Combination
	93-264294-5607	Glover, Wayne E	Ogden City Corp.	2484 Washington Blvd #230	Ogden	UT	84401	II/I-UBC,UPC,UMC
	98-355364-5607	Goble, Shelli	387 W 1375 N		Centerville	UT	84014	III-UBC,UPC,UMC
	95-271806-5607	Goez, William James	55 N Main		Ivins	UT	84738	III-Combination
	93-264087-5607	Gonzales, Gilbert	Murray City Corp	4646 South 500 West	Murray	UT	84123	I-Combination
	93-137875-5607	Graham, Marvin H	1193 S Windsor St		Salt Lake City	UT	84105	I-Combination
	93-135437-5607	Green, Ralph Willard	P O Box 720054		Summit	UT	84772	I-UBC
	94-265060-5607	Green, Richard Brandon	Layton City	437 North Wasatch Dr	Layton	UT	84041	III-Combination
	93-264378-5607	Green, William George	West Valley City	3600 S. Constitution Blvd	West Valley City	UT	84119	I-Combination
	94-271077-5607	Greenhalgh, Wesley Joseph	1140 E 170 N		Heber City	UT	84032	I-Combination
	96-320673-5607	Grooms, Gavin Lewis	3904 FOOTHILL DRIVE		Provo	UT	84604	III-UBC
	93-180135-5607	Gustafson, Joseph F	2274 S 1300 E G-8-124		Salt Lake City	UT	84106	I-NBC
	93-270258-5607	Haderlie, Bryce K	Brigham City Corp.	20 North Main	Brigham City	UT	84302	I-Combination
	93-265297-5607	Hall, Mac J	Hurricane City	58 North 200 East	Hurricane	UT	84737	I-Combination
	97-353252-5607	Hall, Wayne Ross	50 S Main		Springville	UT	84663	I-U[illegible]
	97-346723-5607	Halladay, Tracy L	Box Elder County	01 S Main	Brigham City	UT	84302	III-Combination
	93-264524-5607	Hamblin, Steven R	Layton City Corp	437 Wasatch Dr.	Layton	UT	84041	I-Combination
	96-177754-5607	Hammond, Kevin Ray	PO Box 701518		West Valley City	UT	84170	III-Combination
	95-292545-5607	Hansen, Carl D	270 E 200 N		American Fork	UT	84003	III-UPC
	97-345011-5607	Hansen, Harvey Jr	40 W 200 N		Manti	UT	84642	III-Combination
	93-267297-5607	Hansen, Jon David	9127 Terri Lynn Dr		Sandy	UT	84094	I-UBC,UPC,UMC
	96-330092-5607	Hanson, Larry Warren	197 E Tabernacle		St George	UT	84770	I-Combination
	95-312265-5607	Harbuck, Stanley C	P O Box 1643		Salt Lake City	UT	84110	III-UBC

OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	99-370207-5607	Hardle, David John	181 E 5460 S 4		Murray	UT	84107	III-UPC
	98-358561-5607	Hardman, Barry Kent	372 East 1100 North		Pleasant Grove	UT	84062	I-UBC,UPC,UMC
	94-276984-5607	Harry, Michael Lynn	1550 S 1000 W		Salt Lake City	UT	84104	III-UPC,UMC/I-UBC
	93-267703-5607	Hartwell, Richard	660 E 8680 S		Sandy	UT	84070	I-Combination
	93-264517-5607	Haws, Wayne Jay	Highland City	5378 West 10400 North	Highland	UT	84003	III-Combination
	93-264599-5607	Hayward, Paul	1663 W 1410 N		Farmington	UT	84025	II/I-UBC,UPC,UMC
	93-265289-5607	Hendricks, Mark E	145 North 200 East		Lindon	UT	84042	I-Combination
	97-337651-5607	Hennessee, Mickey W	P O Box 630		Roy	UT	84067	I-UBC,NEC,UPC
	94-274763-5607	Herrera, Marty Anthony	P O Box 116	439 S Porter Merrill Lane	Duchesne	UT	84021	III/I-UPC,UMC
	93-264996-5607	Heyborne, Loyd	76 North Main		Kanab	UT	84741	III-Combination
	93-265609-5607	Hicks, John L	Sevier County	250 North Main	Richfield	UT	84701	I-Combination
	93-264993-5607	Hillier, Brett M	BJY Inc.	687 N Center St	Lehi	UT	84043	I-Combination
	93-265582-5607	Hilton, Jody L	Sandy City Corp	10000 Centennial Pky	Sandy	UT	84070	I-Combination
	95-287862-5607	Hinrichs, Andrew Paul	P O Box 444		Richfield	UT	84701	I-Combination
	93-267301-5607	Hodge, Scott K	Clearfield City Corp	140 E Center St	Clearfield	UT	84015	I-UBC,UPC,UMC
	94-273030-5607	Hodson, John Kent	880 Medoland Dr		Brigham City	UT	84302	I-UBC,UMC
	98-339027-5607	Hofhine, Mary Ellen	125 E Center		Moab	UT	84532	I-UBC
	94-173930-5607	Hoggan, Steven James	724 S 600 W		Brigham City	UT	84302	I-UBC,UPC,UMC
	93-264988-5607	Holmstead, Lee G	Draper City	12441 South 900 East	Draper	UT	84020	I-Combination
	94-183423-5607	Holt, Mark Brown	281 E 200 N		Logan	UT	84321	I-NEC
	93-263187-5607	Holt, Verl Delale Sr	9944 Tulip Dr		Sandy	UT	84094	I-UPC
	95-282014-5607	Hooten, Nelson Robert	10000 Centenial Pkwy # 210		Sandy	UT	84070	III-UBC,UPC,UMC
	98-358019-5607	Horspool, Larry D	West Haven City	2440 S 2050 W	West Haven	UT	84401	III-UBC,UPC,UMC
	94-278077-5607	Hosler, Bret Allen	50 W 100 S		Blanding	UT	84511	I-Combination
	93-146324-5607	Houston, Jeffrey L	2800 W Stafford Cir		West Valley City	UT	84119	I-NEC
	94-277474-5607	Hudson, Michael Ralph	155 E 400 N		La Verkin	UT	84745	I-Combination
	93-265398-5607	Hugo, Charles V	Provo City	PO Box 1849	Provo	UT	84604	I-Combination
	93-261359-5607	Hulme, G Lynn	883 E 11000 S		Avon	UT	84328	III/I-UPC
	99-369514-5607	Hunsaker, Kurt Bradbury	415 N 1st W		Smithfield	UT	84335	I-Combination
	96-317100-5607	Hunsaker, Michael S	Thiokol Corp DLV Division	P O Box 689 M/S 383	Brigham City	UT	84302	I-Combination
	93-261374-5607	Hunt, Wesley C	ENTERPRISE CITY	PO BOX 340	Enterprise	UT	84725	III/I-UBC
	93-264019-5607	Isakson, Leslie Brinkman	Summit County	P O Box 128	Coalville	UT	84017	III/I-UBC,UPC,UMC
	93-264085-5607	Isbell, Melvin Randall	Salt lake City Corp	451 South State St. #115	Salt Lake City	UT	84111	I-UBC
	93-264486-5607	Ivie, Ronald Dean	Park City Corp	PO Box 1480	Park City	UT	84060	I-UBC,UPC,UMC
	93-265583-5607	Jackson, Donna S	Midvale City	80 E. Center St.	Midvale	UT	84047	I-Combination
	98-358382-5607	Jackson, Frederick Charles	558 N 900 E		Lehi	UT	84043	I-UBC
	93-261862-5607	Jackson, Richard Dane	THIOKOL CORP	P O BOX 707	Brigham City	UT	84302	I-NEC
	93-261278-5607	Jacobson, Kirk C	Springville Bldg. Official	50 South Main Street	Springville	UT	84663	I-Combination
	93-269195-5607	Jaynes, David Theron	1480 E 7200 S		Salt Lake City	UT	84121	I-Combination
	94-273836-5607	Jensen, Harold Edward	491 E 2015 N		Cedar City	UT	84720	III-Combination
	93-187252-5607	Jensen, Howard G	698 E 300 S		Hyrum	UT	84319	I-UBC,UPC,UMC
	95-310886-5607	Jensen, Paul Freeman	2166 Willow Brook Way		Sandy	UT	84092	I-UBC
	94-278894-5607	Jenson, Ronald Lynn	5925 N 4500 W	P O Box 175	Bear River City	UT	84301	I-NEC
	93-266728-5607	Jernigan, Shannon Joshua	2291 E 130 N		St George	UT	84790	I-Combination
	95-309225-5607	Johnson, David Lee	30 West 100 South		Salem	UT	84653	I-Combination
	99-137486-5607	Johnson, Dean Edwin	P O Box 317		Duchesne	UT	84021	I-UPC
	94-276655-5607	Johnson, Jim Richard	55 S Main		Panguitch	UT	84759	III/I-UBC
	96-265038-5607	Johnson, Kennith W	363 N 790 W		Lindon	UT	84042	III/I-UMC
	93-260988-5607	Johnson, Peter James	4393 W Cedar Hills Dr		Cedar Hills	UT	84062	I-Combination
	96-328110-5607	Johnson, Wendy Kay	56 N State St		Orem	UT	84057	I-Combination

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OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	93-260986-5607	Jorgensen, Tim James	292 South 300 East		Smithfield	UT	84335	III-Combination
	95-290663-5607	Jorgenson, Eric Lynn	Lehi City	99 West Main Suite 100	Lehi	UT	84043	I-Combination
	97-333364-5607	Kaufusi, Albert Wallace	3807 W Carolina Dr		West Jordan	UT	84084	III-UBC
	93-262133-5607	Keller, Allen C	540 S 100 E no 6		Brigham City	UT	84302	I-NBC
	94-270494-5607	Kendall, Clifford Wayne	14494 S Shaggy Mountain Rd		Herriman	UT	84065	I-Combination
	93-128753-5607	Kerner, Michael G	5141 Brittany Ct		Salt Lake City	UT	84120	I-Combination
	93-263053-5607	Kerr, Gary Russell	South Ogden City	560 39th Street	Ogden	UT	84403	I-Combination
	93-261438-5607	Kester, Raymond Dawayne	10428 Amaryllis Dr		Sandy	UT	84094	I-Combination
	93-264078-5607	Kester, Richard Ellis	Murray City Corp	4646 South 500 West	Murray	UT	84123	I-Combination
	96-333132-5607	Kirkham, Cindy	88 E Fiddlers Canyon	Suite B	Cedar City	UT	84720	III-UBC
	96-330959-5607	Kitchen, Steven D	2380 Washington Blvd		Ogden	UT	84401	III-Combination
	95-272648-5607	Korenko, Lewis George	Carbon County Courthouse	120 E Main	Price	UT	84501	I-Combination
	98-289287-5607	Kresser, Ted Neil	3600 Constitution Blvd		West Valley City	UT	84119	I-UBC,UPC
	95-171273-5607	Lapray, Ross G	2076 N 1200 E		North Logan	UT	84321	I-Combination
	97-116815-5607	Larsen, Leon	360 E 300 N	RR 1 Box 58	Fairview	UT	84629	I-Combination
	93-265394-5607	Larsen, Mark Burgis	1600 E South Weber Dr		South Weber	UT	84405	I-Combination
	94-272250-5607	Larsen, Paul B	1130 E Center St		Spanish Fork	UT	84660	I-Combination
	93-167013-5607	Larsen, Wallace P	710 W 550 S		Tremonton	UT	84337	I-UPC,UMC
	99-370031-5607	Leany, Kenneth Lyle	1766 N 750 E		Lehi	UT	84043	I-UBC,UMC
	98-331150-5607	Lee, Nathan Dennis	236 W 1200 N		Logan	UT	84341	I-UBC
	93-265098-5607	Lee, Terence C	132 N Blue Sage Ln		Layton	UT	84040	I-UPC,UMC
	93-268813-5607	Leifson, Lee George	78 W 100 S		Santaquin	UT	84655	III-Combination
	93-263294-5607	Leishman, Jeffery R	403 E 850 N		Brigham City	UT	84302	I-Combination
	93-266388-5607	LeMay, Kathy C	Salt Lake County Dev. Services	2001 So State Street #N3600	S L County Complex	UT	84190	I-Combination
	93-261365-5607	Lessing, Hal Ray	BEAVER CITY	PO BOX 271	Beaver	UT	84713	I-Combination
	93-261846-5607	Levanger, David Wayne	Carbon County	120 E Main St	Price	UT	84501	I-Combination
	93-264520-5607	Lewis, Larry S	0 North 100 East	Box 218	Millville	UT	84326	III-Combination
	97-334863-5607	Liddiard, Linda Marie	37 Artistic Circle		Springville	UT	84663	I-UBC,UPC
	95-288524-5607	Lincoln, Lawrence B	7136 S Terrel Cir		Midvale	UT	84047	I-Combination
	96-329942-5607	Lindgren, Kerry R	1845 E 5650 S		Ogden	UT	84403	III-Combination
	94-271261-5607	Lisonbee, James	Rt 3 Box 3071-C		Roosevelt	UT	84066	I-Combination
	98-359891-5607	Lowe, Duskin R	56 N State		Orem	UT	84057	I-Combination
	93-265074-5607	Lund, Thomas G	962 West Porter Lane		West Bountiful	UT	84087	III-Combination
	93-267574-5607	Lybbert, Craig	Brigham Young University	234 BRWB	Brigham Young Univ	UT	84602	I-UBC,UPC
	98-271883-5607	Mackelprang, Jason Wayne	88 E Fiddlers Canyon Dr Ste B		Cedar City	UT	84720	III-UPC,UMC
	96-332684-5607	Maedgen, Carey S	340 E 3545 S		Salt Lake City	UT	84115	I-UBC,NBC,UMC
	96-319918-5607	Mallory, Michael B	7148 Susan Wy		Salt Lake City	UT	84121	I-Combination
	97-134212-5607	Marler, Clair Allen	UTAH STATE UNIVERSITY	UMC 6600	Logan	UT	84322	I-UPC
	93-265585-5607	Marsell, Scott E	Sandy City Corp	10000 Centennial Pky	Sandy	UT	84070	I-Combination
	93-269173-5607	Martin, Kenneth Wayne	North Ogden City	505 E 2600 N	North Ogden	UT	84404	III/I-UBC,UPC,UMC
	93-156045-5607	Martineau, L Dean	555 W 200 S		Smithfield	UT	84335	I-UBC,UPC
	94-172620-5607	Martinez, Gilbert	P O Box 572421		Salt Lake City	UT	84157	I-NBC
	95-147330-5607	Maughan, Bruce C	5056 N 2400 W		Benson	UT	84335	I-NBC
	98-316573-5607	Maughan, Danny Newell	505 E 2600 N		North Ogden	UT	84414	III-Combination
	93-262950-5607	Maughan, H Eldon	2018 W 800 North		Provo	UT	84601	I-Combination
	93-265893-5607	Maynes, Joseph Craig	Washington City	PO Box 575	Washington	UT	84780	I-Combination
	93-266200-5607	Mc Donald, Keith	2001 S STATE ST STE N3600		S L County Complex	UT	84190	I-UBC,UPC
	93-265587-5607	McClintic, James L	10000 Centennial Pkwy		Sandy	UT	84070	I-Combination
	98-335095-5607	McDonald, Michael A	2484 Washington Blvd Ste 230		Ogden	UT	84401	I-UPC
	93-264989-5607	McDonald, Robert G	Wasatch County	25 North Main	Heber City	UT	84032	I-Combination

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	95-288571-5607	McKenzie, Douglas L	1190 E Sierra Way		Salt Lake City	UT	84106	I-UBC
	98-361256-5607	McQuillin-Owen, Michael John	599 S 500 E Ste 106		American Fork	UT	84003	I-UBC,NBC
	93-266754-5607	Mertlich, Dennis C	St. George City	175 East 200 North	St George	UT	84770	I-Combination
	97-153210-5607	Michaelis, Craig E	1276 September Morn Cir		Taylorsville	UT	84123	I-NBC
	96-317849-5607	Michelsen, Alan Read	451 S State St Rm 406	Building Services & Licensing	Salt Lake City	UT	84111	I-UBC,UMC
	95-288377-5607	Mikkelsen, Scott L	816 W 1700 S		Woods Cross	UT	84087	I-UBC,UMC
	97-134648-5607	Miley, James Robert	1830 W 2575 S		Syracuse	UT	84075	I-UPC
	98-321715-5607	Miller, Eric Chad	Farmington City Eric Miller	PO Box 160	Farmington	UT	84025	III-Combination
	93-264030-5607	Mitchell, Gerald V	West Valley City	3600 Constitution Blvd	West Valley City	UT	84119	I-Combination
	93-261859-5607	Moniasque, Patrick Stephen	PO Box 518		Willard	UT	84340	I-UBC,UPC,UMC
	96-266944-5607	Monroe, Jeffery G	Clinton City Corp	1906 West 1800 North	Clinton	UT	84015	III-Combination
	93-264489-5607	Monsen, Dallas C	Summit County	P.O. Box 128	Coalville	UT	84017	I-Combination
	95-268958-5607	Montalvo, Ty M	South Jordan City	11175 S Redwood Rd	South Jordan	UT	84095	I-Combination
	94-282054-5607	Moosman, David J	161 E 300 N P O Box 234		Bicknell	UT	84715	III/I-UBC,UPC
	93-264526-5607	Morrill, W Rondall	270 E 200 N		American Fork	UT	84003	III/I-UBC,UPC,UMC
	97-343039-5607	Morrison, Darrell G	9014 W Port au Prince Ln		Peoria	AZ	85381	I-Combination
	93-264370-5607	Morton, Geoffrey Monroe	Park City Municipal Corp.	445 Marsac Ave	Park City	UT	84060	I-Combination
	95-316186-5607	Mott, Karl DelRay	50 E 100 S P O Box 317		Duchesne	UT	84021	I-Combination
	93-267222-5607	Moulding, LeRoy I	4441 S 200 W		Washington Terrace	UT	84405	III-UPC,UMC
	93-277371-5607	Muirhead, Ernest E	50 S MAIN		Springville	UT	84663	I-Combination
	93-264327-5607	Murray, Stuart J	Ogden City Corp	2484 Washington Blvd.	Ogden	UT	84401	I-Combination
	93-262533-5607	Nance, Daniel Lee	78 N 500 E		Vernal	UT	84078	I-Combination
	93-265117-5607	Nay, Chad Kent	Iron County	88 East Fiddlers Canyon Rd	Cedar City	UT	84721	III/I-UMC
	97-333418-5607	Nelson, Charles Scott	4600 S Weber River Dr		Riverdale	UT	84405	I-Combination
	93-263814-5607	Nelson, John P	Cache County Corp	179 North Main #19	Logan	UT	84321	I-Combination
	93-268415-5607	Neve, James Douglas	6003 Nimbus Way		Salt Lake City	UT	84118	I-Combination
	93-265313-5607	Nicholls, Dale Lee	40 W 200 N	Sanpete County	Manti	UT	84642	I-Combination
	93-263999-5607	Nielsen, Richard C	Salt Lake City Corp	451 South State St. #406	Salt Lake City	UT	84111	I-UBC
	98-364117-5607	Nielsen, Richard Merlin	Sanpete Cty Bldg Dept	40 W 200 N	Manti	UT	84642	III-NBC/I-UPC,UBC,UMC
	97-353021-5607	Nielson, Gregg C	P O Box 433		Spanish Fork	UT	84660	III-UBC
	96-121940-5607	Ogura, Daniel I	8000 S 1700 W		West Jordan	UT	84088	I-Combination
	93-261293-5607	Packham, Alan J	5307 S Arapaho Dr		Ogden	UT	84403	III-Combination
	93-267226-5607	Padlo, Lawrence Simon	Thiokol Corp	P O Box 689 MS 300	Brigham City	UT	84302	I-UBC,UPC,UMC
	93-268417-5607	Page, Jim Fredrick	532 North 300 East		Provo	UT	84606	I-Combination
	95-311293-5607	Palmer, Jack Duane	700 S Mountain Rd		Fruit Heights	UT	84037	III-Combination
	93-264999-5607	Palmer, Larry Daniel	Cedar City Corp.	110 North Main	Cedar City	UT	84720	III-NBC/I-UPC,UBC,UMC
	93-265299-5607	Palmer, Terry Bruce	Provo City	351 West Center Street	Provo	UT	84604	I-Combination
	96-276634-5607	Palmer, Terry Durell	88 E Fiddler's Canyon		Cedar City	UT	84720	III-Combination
	97-350457-5607	Pankow, Jeffrey	2627 W Kilby Rd D-204		Park City	UT	84098	III-UBC
	93-267812-5607	Partridge, Kent Lorin	843 East Heather Road		Orem	UT	84057	III/I-UBC,UPC
	99-338976-5607	Paterakis, Randy L	140 E Center St		Clearfield	UT	84015	III-UBC,UPC
	93-264286-5607	Patrick, Steven Scott	Ogden City Corp	2484 Washington Blvd.	Ogden	UT	84401	I-Combination
	93-269189-5607	Patterson, Carl E	13103 S 1480 E		Draper	UT	84020	I-Combination
	97-347104-5607	Paxton, Edward Lynn	10545 S 5200 W		Payson	UT	84651	I-Combination
	95-126280-5607	Payne, Gary R	45 E State St P O Box 588		Farmington	UT	84025	I-UBC
	95-276517-5607	Peck, Korwyn Dean	185 E 4380 N		Provo	UT	84604	I-Combination
	93-265890-5607	Peguillan, Marvin E	935 E 3000 N 110		Layton	UT	84040	III-UBC,UPC,UMC
	94-118605-5607	Perrick, James Duane	2984 Lostwood Drive		Sandy	UT	84092	I-Combination
	93-264521-5607	Peters, Paul R	American Fork City	270 East 200 North	American Fork	UT	84003	III-UBC,UPC,UMC
	93-264079-5607	Peterson, Dale Shell	Uintah County	152 East 100 North	Vernal	UT	84078	I-Combination

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	93-265611-5607	Peterson, L Jack	Fillmore City		Fillmore	UT	84631	III-Combination
	93-261845-5607	Pew, Franklin Craig	NEPHI CITY CORP.	21 EAST 100 NORTH	Nephi	UT	84648	III-Combination
	93-265002-5607	Pierce, Wilford G	275 North Escalante Dr.		Elk Ridge	UT	84651	III-Combination
	98-367280-5607	Plaga, Todd E	440 E 100 S Ste 207		Salt Lake City	UT	84111	I-UPC
	93-128635-5607	Polanshek, Dennis E	P O Box 71586		Salt Lake City	UT	84171	I-Combination
	93-264015-5607	Pommier, Andre'	Box Elder County	01 South Main	Brigham City	UT	84302	I-Combination
	96-321942-5607	Pope, Lloyd Wayne	PO BOX 160		Toquerville	UT	84774	I-NBC,UPC,UMC
	96-326544-5607	Powell, Charles D	56 N State St		Orem	UT	84057	I-UBC,UPC,UMC
	93-264981-5607	Preece, Brian Alan	Heber City Corporation	75 North Main	Heber City	UT	84032	I-Combination
	93-263955-5607	Price, Edward Arlo	Garden City	145 West Logan Road	Garden City	UT	84028	I-Combination
	93-265075-5607	Priest, Robert Michael	Thiokol Corp, Space Operations	PO Box 707 M/S 552	Brigham City	UT	84302	I-UPC,UMC
	97-336718-5607	Rakowski, Roger Edward	451 S State Rm 406		Salt Lake City	UT	84111	I-UMC
	98-349922-5607	Randall, Anthony Theron	375 S 200 E P O Box 340		Enterprise	UT	84725	III-Combination
	93-168267-5607	Rasmussen, Robert C	1249 E 1400 S		Garland	UT	84312	I-UBC,UPC,UMC
	93-265312-5607	Reagan, Jerry Newt	Millard County	71 S 200 W P O Box 854	Delta	UT	84624	I-UBC,NBC,UMC
	94-271454-5607	Reeves, Brent Parke	837 North 500 East		Brigham City	UT	84302	I-UBC
	93-264011-5607	Reich, Sherrie E	Salt Lake City Corp	451 South State St. #406	Salt Lake City	UT	84111	I-UBC
	98-126730-5607	Renwick, Robert S	2543 E Evergreen Ave		Salt Lake City	UT	84109	I-NBC
	96-329127-5607	Ricard, George H	641 East 750 North		Ogden	UT	84404	III-Combination
	93-262535-5607	Rice, Gerald Walter	BLUFFDALE CITY	14175 SO REDWOOD RD	Riverton	UT	84065	I-Combination
	97-345559-5607	Richardson, Craig	451 S State St Ste 406		Salt Lake City	UT	84111	I-UMC
	97-340111-5607	Rigby, Kevin Reed	Building F-3	Freeport W/PO Box 160452	Clearfield	UT	84016	I-UMC
	93-260987-5607	Roberts, Merrill H	Farmington City	130 North Main	Farmington	UT	84025	I-Combination
	93-261282-5607	Robinette, Frankie Lee	327 SOUTH 800 EAST		Springville	UT	84663	II/I-UBC,UPC,UMC
	93-260989-5607	Robinson, Byron Antone	PO Box 216		Paragonah	UT	84760	III/I-UBC
	93-265119-5607	Robinson, Ellis John	Alpine City	20 North Main	Alpine	UT	84004	III-Combination
	96-324241-5607	Robison, Richard P	1710 Herbert Ave		Salt Lake City	UT	84108	III-UBC
	93-174702-5607	Rogers, Gaylen David	6308 W 10950 N		Highland	UT	84003	I-NBC
	98-128133-5607	Rohner, Jacob William	2277 W Mountainside Cir		Bluffdale	UT	84065	III-UBC
	93-264518-5607	Rojas, Daniel M	American Fork City Corp.	270 East 200 North	American Fork	UT	84003	III/I-UBC,UPC,UMC
	93-143429-5607	Rowley, Chris V	P O Box 627		Huntington	UT	84528	III/I-NBC
	93-262530-5607	Rudd, Kevin Lee	55 N Main		Ivins	UT	84738	I-Combination
	98-357662-5607	Ruesch, Del Don	111 S Main		La Verkin	UT	84745	III-UBC,UPC,UMC
	96-325228-5607	Ryan, William P Jr	West Valley City	3600 Constitution blvd	Salt Lake City	UT	84102	I-UBC,UPC
	93-264488-5607	Sales, Winston James	Ogden City Bldg Inspection	2484 Washington Blvd	Ogden	UT	84401	I-Combination
	93-261361-5607	Sanchez, Albert L	SLCAA Eng & Maint Term 1	AMF Box 22084	Salt Lake City	UT	84122	I-UBC,NBC
	98-362403-5607	Sandoval, Philbert Mark	10000 Centennial Parkway		Sandy	UT	84070	I-UBC
	96-333144-5607	Sattler, Rollin A	Provo City	351 W Center St	Provo	UT	84603	I-Combination
	93-264487-5607	Saunders, John J	Ogden City	2484 Washington Blvd	Ogden	UT	84401	I-Combination
	94-131142-5607	Sauter, Logan Gregory	1180 N 1000 E		Orem	UT	84097	I-Combination
	96-310904-5607	Schmid, Mark R	Heber City	75 North Main	Heber	UT	84032	I-Combination
	93-264012-5607	Schmidtke, Joseph	Salt Lake City Corp	451 S State St 406	Salt Lake City	UT	84111	I-UBC
	93-133768-5607	Schoenfeld, Edwin Lingard	1446 W 4020 SOUTH		Salt Lake City	UT	84123	I-UPC
	97-342064-5607	Schofield, Nolan Charles	1787 S 2000 W		Syracuse	UT	84075	I-UBC
	93-265054-5607	Schulte, LeRoy William	531 Princeton Dr		Midvale	UT	[illegible]	I-Combination
	97-351362-5607	Scott, Jeffrey Michael	983 E Antelope Dr		Layton	UT	84040	III-Combination
	97-350773-5607	Sells, Brent D	451 S State Rm 406		Salt Lake City	UT	84111	I-UMC
	93-264077-5607	Shaffer, F Joel	St. George City	175 East 200 North	St George	UT	84770	I-Combination
	93-265307-5607	Sharp, Lynn J	South Jordan City	11175 S Redwood Rd	South Jordan	UT	84095	I-Combination
	94-278893-5607	Shelton, William Randall	2537 N 230 E		North Logan	UT	84341	I-NBC

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	93-264515-5607	Short, Edward L	DOPL	160 East 300 South	Salt Lake City	UT	84145	I-UBC,UPC
	99-370464-5607	Short, Randy Joe	1020 Russell Rd		Eagle Mountain	UT	84043	III-UBC
	95-285947-5607	Shorts, Douglas K	40 S Main		Spanish Fork	UT	84660	I-Combination
	97-342025-5607	Shumpert, Lynn D	Brigham Young University		Provo	UT	84602	I-UBC
	93-264978-5607	Simister, Kurt Allen	315 E 100 S # 13		Coalville	UT	84017	I-Combination
	93-264490-5607	Simister, Leon S	PO Box 327	12 South Main	Coalville	UT	84017	III-Combination
	93-266735-5607	Simkins, Richard Spencer	St. George City	175 East 200 North	St George	UT	84770	I-Combination
	93-264363-5607	Smith, Douglas Raymond	Ogden City Corp	2484 Washington Blvd	Ogden	UT	84404	I-Combination
	93-269192-5607	Smith, Joseph Devon	North Ogden City	505 E 2600 N	North Ogden	UT	84404	III-UBC,UPC,UMC
	93-264992-5607	Smith, Kent D	PO Box 886		Morgan	UT	84050	I-Combination
	98-347471-5607	Smith, Ralph Leon	71 S 200 W P O Box 854		Delta	UT	84624	III-UBC,NEC
	95-291386-5607	Smitherman, Dalton Lakey	175 E 200 N		St George	UT	84770	I-UPC,UMC
	98-365677-5607	Snelgrove, Jon	930 S 1675 W		Orem	UT	84058	III-Combination
	94-273145-5607	Southwick, Mark E B	P O Box 429		Dietrich	ID	83324	III-UBC
	93-264491-5607	Sowell, Clyde E	305 South 600 East		Centerville	UT	84014	I-Combination
	93-267230-5607	Sowell, Todd M	1154 E 3250 N		Layton	UT	84040	I-Combination
	98-332388-5607	Spadafora, A Randy	279 N MAIN		Spanish Fork	UT	84660	III-UBC,UMC
	93-263983-5607	Spangenberg, Craig Lynn	Salt Lake City Corp	451 South State St. #406	Salt Lake City	UT	84111	I-UBC,NEC
	94-274452-5607	Speth, Brent Dean	15 E Main		Providence	UT	84332	I-Combination
	93-129343-5607	Squire, Morris J	573 South 200 East		Kaysville	UT	84037	I-Combination
	97-334643-5607	Stanton, Edwin Mark	12441 S 900 E P O Box 1020		Draper	UT	84020	III-Combination
	95-267097-5607	Steffensen, Donald J	South Jordan City	11175 S Redwood Rd	South Jordan	UT	84065	I-Combination
	95-289101-5607	Stilson, Lewis D	P O Box 28		Orangeville	UT	84537	III-UBC
	93-269467-5607	Stone, Ronald Gary	Granite School District	340 E 3545 S	Salt Lake City	UT	84115	I-UBC,NEC
	93-260992-5607	Storey, Rial S	1424 N Eyrie Dr		Ogden	UT	84404	I-Combination
	93-265115-5607	Strange, Clint Allen	Thiokol Corp	PO Box 707	Brigham City	UT	84302	I-NEC,UMC
	94-120730-5607	Strong, Richard William	967 N Kingswood		Kaysville	UT	84037	I-NEC
	98-348244-5607	Stubbs, Dan Earl	351 W Center St		Provo	UT	84603	III-UPC
	93-264292-5607	Suggars, Lawrence L	Salt lake City Corp.	451 South State Street #406	Salt Lake City	UT	84111	I-UBC,UPC,UMC
	93-261285-5607	Swensen, Delbert Lee	10164 S Menteith St		South Jordan	UT	84095	I-Combination
	98-355593-5607	Symes, Matthew Troy	10000 Centennial Pky		Sandy	UT	84070	I-UBC
	97-148271-5607	Talbot, George Lincoln	838 N Hwy 89		Kaysville	UT	84037	I-UPC
	95-293978-5607	Tandy, Earl P	P O Box 1849		Provo	UT	84603	I-UBC
	94-278080-5607	Tate, Jerry A	753 W 1725 N		Orem	UT	84057	I-Combination
	93-264090-5607	Taylor, Bruce	330 E 100 S		Pleasant Grove	UT	84062	I-Combination
	93-266732-5607	Taylor, Kevin A	St. George City	175 East 200 North	St George	UT	84770	I-Combination
	93-261294-5607	Taylor, Paul D	255 North Main		Logan	UT	84321	I-Combination
	93-264374-5607	Taylor, Robert J	Park City Municipal Corp	PO Box 1480	Park City	UT	84060	I-Combination
	94-278722-5607	Taylor, Thomas Virgil	2282 W 6800 N		Beryl	UT	84714	III/I-NEC,UPC
	93-263186-5607	Thatcher, Dennis LaMar	9985 S 1700 W		South Jordan	UT	84095	III/I-UBC
	96-332226-5607	Thomas, Dennis Patrick	City of Provo	351 W Center St	Provo	UT	84603	III-UBC
	98-366506-5607	Thomas, Kip David	PO Box 1505		Blue Springs	MO	64013	I-Combination
	94-277576-5607	Thompson, Jerry Brandt	607 S 300 E		Kaysville	UT	84037	I-Combination
	93-135561-5607	Thompson, L Keith	P.O. Box 607		Snowville	UT	84336	I-UPC
	96-273678-5607	Threet, Billie Merrill	163 N 850 W		Parowan	UT	84761	III-UBC
	93-265304-5607	Thurgood, Marlow D	4110 State Office Bldg		Salt Lake City	UT	84114	I-Combination
	94-279696-5607	Tingey, Jeffrey S	1574 N 1100 W		West Bountiful	UT	84087	I-UPC
	93-263825-5607	Tippets, Paul R	Washington Terrace City	275 East 4425 South	Washington Terrace	UT	84405	I-Combination
	96-316178-5607	Tomasino, Patrick J	City of Logan	255 North Main Street	Logan	UT	84321	I-Combination
	93-265071-5607	Trussell, Joseph Kent	Summit County Bldg. Dept.	P.O. Box 128	Coalville	UT	84017	III-NEC,UPC,UMC/I-UBC

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OLD NUMBER	NEW LICENSE No	LICENSEE NAME	ADDRESS LINE 1	ADDRESS LINE 2	CITY	ST	ZIP	SUB-SPECIALTY
	93-266571-5607	Turner, Larry L	Salt lake School District	440 East 100 South Ste 207	Salt Lake City	UT	84111	I-UBC,UPC,UMC
	97-333974-5607	Turner, Scott	1145 E South Union Ave		Midvale	UT	84047	I-NEC
	94-275020-5607	Urry, Mark Holden	Murray City Corp	4646 South 500 West	Murray	UT	84123	III-NEC/I-UPC,UBC,UMC
	97-339648-5607	Van Ausdal, Jason Carl	1787 S 1250 W		Syracuse	UT	84075	III/I-UBC
	94-131172-5607	Van Den Berghe, Matthew H	139 N 500 WEST		Cedar City	UT	84720	I-NEC
	93-263978-5607	Vander Linden, William G	Summit County	P O Box 128	Coalville	UT	84017	I-Combination
	97-337517-5607	Vincent, Ryan Andrew	794 W 2500 S		Vernal	UT	84078	III-NEC,UPC,UMC
	93-264600-5607	Vinzant, Lynn Everett	Clinton City	1906 W 1800 N	Clinton	UT	84015	I-UBC,UPC,UMC
	93-264089-5607	VonWeller, Anne R	Murray City Corp	4646 South 500 West	Murray	UT	84123	II/I-UBC
	96-268680-5607	VonWeller, Jason Richard	1165 N 2875 W		Layton	UT	84041	III-NEC,UPC,UMC/I-UBC
	93-264998-5607	VonWeller, Richard H	3812 S Bountiful Blvd		Bountiful	UT	84010	III/I-UBC,UPC,UMC
	95-309777-5607	Walker, Ernest Vern	351 W Center St3		Provo	UT	84603	I-UBC,UPC
	94-272519-5607	Ward, Randall Anthony	1550 E 1400		Lehi	UT	84043	I-Combination
	97-344925-5607	Warner, Brian J	4741 W 4175 S		West Valley City	UT	84120	III-UBC
	98-365282-5607	Warnick, David Michael	3600 S Constitution Blvd		West Valley City	UT	84119	III-UBC,UPC
	94-128426-5607	Waterman, Brent David	P O Box 433		Heber City	UT	84032	I-NEC
	93-263055-5607	Weaver, William Charles	Washington County	197 East Tabernacle	St George	UT	84770	III/I-UBC,NEC
	94-277023-5607	Webb, Jon I	1454 HARROP		Ogden	UT	84404	I-Combination
	94-278109-5607	Webster, David Lane	Weber County Building Inspec	2380 Washington Blvd	Ogden	UT	84401	I-Combination
	93-261372-5607	Wedman, Kevin James	106 N 800 W		Lindon	UT	84042	I-Combination
	93-265590-5607	Weidauer, Douglas Arnold	Sandy City	10000 Centennial Parkway	Sandy	UT	84070	I-UBC,UPC,UMC
	94-271136-5607	Weigel, Richard	P O Box 465		Tooele	UT	84074	I-Combination
	95-289990-5607	Weigel, Richard L	P O Box 465		Tooele	UT	84074	III/I-UBC,UPC,UMC
	97-347222-5607	Weintz, Christopher A	451 S State St no 406		Salt Lake City	UT	84111	I-UBC,UPC
	94-273806-5607	Wells, Jon Milton	P O Box 96		Smithfield	UT	84335	I-Combination
	98-275489-5607	Wells, Ronald Earl	1906 W 1800 N		Clinton	UT	84015	I-UBC,UPC
	95-291964-5607	Western, Wallace Layne	655 North 1250 West	Centerville City	Centerville	UT	84014	I-Combination
	93-264995-5607	White, Stanley R Jr	Kanab City Corp. Building Dept	140 East 100 South	Kanab	UT	84741	I-Combination
	93-264527-5607	Whitney, Jeff	Grand County	125 East Center	Moab	UT	84532	I-Combination
	93-263986-5607	Wiley, Larry Bruce	Salt Lake City Corp	451 South State St. #406	Salt Lake City	UT	84111	I-UBC
	93-264522-5607	Wilkey, Verl	PO Box 61		Nephi	UT	84648	I-Combination
	96-325019-5607	Wilkins, Donald G	75 E 300 N	P O BOX 420007	Kanarraville	UT	84742	I-Combination
	97-293207-5607	Williams, David R	Orem City	56 North State Street	Orem	UT	84057	I-Combination
	94-273142-5607	Williams, Joseph W	P O Box 543		Wendover	UT	84083	I-Combination
	93-128076-5607	Williams, Noel Douglas	929 BRYAN AVE		Salt Lake City	UT	84105	I-NEC
	97-339481-5607	Wolverton, Todd Michael	12441 S 900 E		Draper	UT	84020	III-UBC,UPC,UMC
	93-261370-5607	Wray, Gerald Lynn	565 South 330 East		American Fork	UT	84003	I-Combination
	93-106887-5607	Wright, Neal Vorwaller	5939 Lupine Way		Salt Lake City	UT	84121	I-NEC
	93-265067-5607	Yeoman, James Leroy	Orem City'	56 North State Street	Orem	UT	84057	III/I-UBC,UPC,UMC
	94-269310-5607	Yergensen, Brian C	Washington County School Dst.	189 West Tabernacle St.	St George	UT	84770	I-Combination
	93-269234-5607	Zohner, Lewis P	435 N Main	P.O. Box 244	Manila	UT	84046	III-Combination

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Appendix B
Form SP-8
Construction Inspection Summary Report

Form SP-8

Construction Inspection Summary Report

______________________ School District

(For all projects exceeding $100,000)

Inspections for Month of:	Year:	USOE Project Number:
Job Name/Description:	Address:	Form Completed by:
		Title:
General Contractor:		

Total Number of Inspections for Period:

Building/Architectural	Notes	Structural	Notes
☐ Fireproof		☐ Footings	
☐ Waterproof		☐ Formwork	
☐ Underground		☐ Foundation	
☐ Drywall/Paint		☐ Rebar	
☐ Roofing		☐ Framing	
☐ Compaction		☐ Columns	
☐ Final Grade		☐ Steel	
☐ Accessibility		☐ Masonry	
☐		☐ Decking	
☐		☐ Bolts/Welds	
☐		☐	
☐		☐	

Mechanical	Notes	Plumbing	Notes
☐ Rough--Above Ground		☐ Rough Underground	
☐ Rough--Under Ground		☐ Underground Gas	
☐ Ductwork		☐ Above Rough	
☐ Insulation		☐ Sewer	
☐ Air Tests		☐ Culinary	
☐ Equipment		☐ Roof Drain	
☐ Refrigeration		☐ Testing	
☐ Controls		☐ Finish	
☐ Hydronic Test		☐ Fire Sprinkler--Rough	
☐		☐ Fire Sprinkler--Finish	
☐		☐	

Electrical	Notes	Other/Special	Notes
☐ Rough Underground		☐ Boiler	
☐ Finish Electrical		☐ Pressure Vessels	
☐ Fire Alarm		☐ Elevators	
☐ Sound		☐	
☐ Computer Cable		☐	
☐ Telephone Cable		☐	
☐ Security/Energy		☐	
☐ Rough Above Ground		☐	
☐ Power Service		☐	
☐		☐	
☐		☐	

Building Official Signature: ______________________ Date: ____________

Copies to: Local Jurisdiction
USOE

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Appendix C
Form SP-9
Final Inspection Certification

Appendix C

Form SP-9

Final Inspection Certification

Form SP-9

Final Inspection Certification

_______________________ School District

This is to Certify that
Final Inspections have been completed and work has been accepted
For

____
(Name of Building)

In Accordance with the State Adopted Building Code (58-56-4 UCA)

Job Name/Description:	Address:	USOE Project Number:
		Building Official Printed Name:
General Contractor:		

Final Inspections Completed and Accepted (please check):

Bldg/Arch	Structural	Mechanical	Plumbing	Electrical	Other/Special
☐ Fireproof	☐ Footings	☐ Rough–Aboveground	☐ Rough Underground	☐ Rough Underground	☐ Boiler
☐ Waterproof	☐ Formwork	☐ Rough–Underground	☐ Underground Gas	☐ Finish Electrical	☐ Pressure Vessel
☐ Underground	☐ Foundation	☐ Ductwork	☐ Above Rough	☐ Fire Alarm	☐ Elevators
☐ Drywall/Paint	☐ Rebar	☐ Insulation	☐ Sewer	☐ Sound	☐ Fire Clearance
☐ Roofing	☐ Framing	☐ Air Tests	☐ Culinary	☐ Computer Cable	☐
☐ Compaction	☐ Columns	☐ Equipment	☐ Roof Drain	☐ Telephone Cable	☐
☐ Final Grade	☐ Steel	☐ Refrigeration	☐ Testing	☐ Security/Energy	☐
☐ Accessibility	☐ Masonry	☐ Controls	☐ Finish	☐ Rough Above Ground	☐
☐	☐ Decking	☐ Hydronic Test	☐ Fire Sprinkler–Rough	☐ Power Service	☐
☐	☐ Bolts/Welds	☐	☐ Fire Sprinkler–Finish	☐	☐
☐	☐	☐	☐	☐	☐
☐	☐	☐	☐	☐	☐

State Licensed Certified Inspectors Certifying Above Final Inspections:

Building/Architectural:

Name:	State License Number:	Discipline

Structural:

Name:	State License Number:	Discipline

Mechanical:

Name:	State License Number:	Discipline

Plumbing:

Name:	State License Number:	Discipline

Electrical:

Name:	State License Number:	Discipline

Other/Special:

Name:	Agency:	Comment:

Building Official Signature: ______________________________ Date: ______________

Copies to: Local Jurisdiction
USOE

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Appendix D
Form SP-10
Certificate of Occupancy

Appendix D
Form SP-10
Certificate of Occupancy

FORM SP-10

Certificate of Occupancy

IN ACCORDANCE WITH THE STATE ADOPTED BUILDING CODE (58-56-4 UCA)

UTAH SCHOOL DISTRICT CERTIFICATE OF OCCUPANCY

School District:

Building Name:

USOE Project Number:

Building Address:

School Board Address:

Portion of building for which this Certificate of Occupancy is issued:

☐ Entire building

☐ Areas listed below only:

It is certified that the described portion of the above-listed building has been inspected for compliance with the requirements of the latest edition of the state-adopted building code (58-56-4 UCA) for the group and division of occupancy and the use for which the proposed occupancy is classified.

Building Official's Name:

Building Official's Signature:

441

Date:

(POST IN CONSPICUOUS PLACE)

Appendix E
Example Inspection Record Forms

Appendix E
Example Inspection Record Forms

DRAFT

Form SP-6

_________________ School District

Construction Inspection Report

School/Project: ______________________________ Date: __________

1. Time Beginning Inspection: __________ Time Ending Inspection: __________

Contractor: ______________________________

Could NOT make inspection for reason circled below (circle one number):

1. Admittance Refused
2. Property Locked
3. Approved Plans not on job site
4. Unable to make inspection
5. Other (explain): __________

2. Describe Inspections Made, Including Locations: ______________________________

List Tests Conducted: ______________________________

3. List Items Requiring Correction: ______________________________

List Changes to Approved Plans Authorized by Architect or Engineer: ______________________________

4. Comments: ______________________________

5. To the best of my knowledge, work inspected was in accordance with the approved design drawings, specifications and applicable workmanship provisions of the latest U.B.C. except as noted above.

ICBO Licensed and Utah Certified Inspector: ______________________________ Date: ________

Please Print Full Name: ______________________________ License Number: ____________

Sample

Construction Inspection Report

Davis County School District
P.O. Box 588
45 East State Street
Farmington, Utah 84025-0588
Construction Services- (801) 451-1268, Fax - (801) 451-1295, Maintenance - (801) 774-7480

Job Name:

Address:

Date:

Time:

General Contractor:

Weather Conditions:

Sub Contractor:

Temperature:

Type of Inspection: ☐ Rough ☐ Partial ☐ Complete

Bldg/Arch	Structural	Mechanical	Plumbing	Electrical
☐ Masonry	☐ Footing	☐ Rough	☐ Rough Undergrnd	☐ Rough Undergrnd
☐ Fireproof	☐ Formwork	☐ Ductwork	☐ Underground Gas	☐ Finish Electrical
☐ Waterproof	☐ Foundation	☐ Insulation	☐ Above Rough	☐ Fire Alarm
☐ Underground	☐ Rebar	☐ Air Tests	☐ Sewer	☐ Sound
☐ Drywall/Paint	☐ Framing	☐ Equipment	☐ Culinary	☐ Computer Tech.
☐ Roofing	☐ Columns	☐ Refrigeration	☐ Roof Drain	☐ Energy/Security
☐ Compaction	☐ Steel	☐ Controls	☐ Testing	☐ Telephone
☐ Final Grade	☐ Decking	☐ Hydronic Test	☐ Finish	☐ Rough Above Grnd
☐ Landscaping	☐ Bolt/Weld	☐	☐	☐ Power Service
☐ ADA	☐	☐	☐	☐

Verbal communication with Contractor, Engineer, Architect etc.

Site activities and size of crew:

Inspector's Signature:

Copies to

White copy - Construction Services Yellow copy Architect Pink copy - Maintenance, Gold copy - General Contractor

Forms/jcj

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Sample

BUILDING DEVELOPMENT & CONSTRUCTION

P.O. BOX 624 • TOOELE, UTAH 84074 • 801-882-6431

CERTIFICATE OF INSPECTION

Job No. ____________________

Property Address ______________________________ ____________ Date __________

Contractor ______________________________________ Time __________

Owner ____

Inspection Type: ☐ BLDG. ☐ ELEC. ☐ PLBG.
☐ COMM ☐ MECH. ☐ ☐ PREINSPECTION
☐ RES. ☐ SPECIAL ☐ ☐ EXCAVATION

Reason for Inspection ☐ CALLED ☐ ROUTINE ☐ COMPLAINT ☐ PICK UP

☐ footings ☐ underground ☐ concrete ☐ Power to Panel
☐ foundation ☐ rough ☐ steel ☐ Ch. 70
☐ frame ☐ pre-final ☐ masonry ☐ sheetrock
☐ insulation ☐ occupancy ☐ progress ☐

RESULTS OF INSPECTION

☐ WORK APPROVED — Stage ☐ Partial ☐ Complete

☐ WORK IN VIOLATION
☐ Do not proceed with work
☐ Make necessary corrections
☐ Work must be completed with a call for reinspection within __________ days.
☐ prior violations not corrected
☐ prior violations corrected
☐ items listed below will be inspected at next regulation inspection

☐ UNABLE TO MAKE INSPECTION
☐ Cannot locate property.
☐ Building locked.
☐ Admittance refused.
☐ Approved plans not available.

☐ Issued Stop Order ☐ Double Fee
☐ Reinspection Required ☐ Reinspection Fee Required

COMMENTS

Signed ______________________________
BUILDING INSPECTOR

Sample

Washington County School District

189 West Tabernacle • St. George, Utah • (801) 680-2615

DEPARTMENT OF BUILDING AND SAFETY

INSPECTION REPORT

PROJECT ______________________________

LOCATION ______________________________ DATE ____/____/____

TYPE OF INSPECTION ____________________ # ________ Time ________ AM PM

CONTRACTOR ______________________________

COMMENTS:

☐ REINSPECTION REQUIRED

447

INSPECTOR: ______________________________

Sample

INSPECTION TYPE	RESULT			
	Approved	Correction Required	Reinspection Required	Prior Violations Not Corrected
CLEARANCES				
1 City Water	☐	☐	☐	☐
2 Electricity	☐	☐	☐	☐
3 Temporary Occupancy	☐			
Exp. Date ______				
LAND USE				
4 Sideyards	☐	☐	☐	☐
5 Setbacks	☐	☐	☐	☐
6 Other	☐	☐	☐	☐
7 Bonds $				
A. Public Way	☐	☐	☐	☐
B. Performance	☐	☐	☐	☐
BUILDING				
Subrough:				
8 Excavation	☐	☐	☐	☐
9 Footings	☐	☐	☐	☐
10 Foundation	☐	☐	☐	☐
Electrical	☐	☐	☐	☐
Mechanical	☐	☐	☐	☐
13 Plumbing	☐	☐	☐	☐
Rough:				
14 Building	☐	☐	☐	☐
15 Electrical	☐	☐	☐	☐
16 Power to Panel	☐	☐	☐	☐
17 Mechanical	☐	☐	☐	☐
18 Plumbing	☐	☐	☐	☐
19 Bond Beam	☐	☐	☐	☐
20 Insulation	☐	☐	☐	☐
21 Drywall	☐	☐	☐	☐
22 Other ______				
FINAL				
23 Building	☐	☐	☐	☐
24 Electrical	☐	☐	☐	☐
25 Mechanical	☐	☐	☐	☐
26 Plumbing	☐	☐	☐	☐
27 Water Meter Box	☐	☐	☐	☐
28 Grading/Excavation	☐	☐	☐	☐
29 Other ______	☐	☐	☐	☐

SPECIAL COMMENTS

☐ Prior Violations Not Corrected

☐ Engineering Required

Item No. ______

☐ Work Incomplete

☐ OK to Proceed without Reinspection

Item No. ______

UNABLE TO MAKE INSPECTION BECAUSE

☐ Approved Plans/Permits Not Available

☐ Building Not Identified

☐ Building Locked or Work Inaccessible

☐ Cannot Locate Structure

☐ Party Missed Appointment

Time ______

☐ STOP WORK

This stop work order is issued pursuant to Section 202 of the Uniform Building Code. For instructions regarding compliance with or appeal of this order you must contact the Building Official at the above address or phone number within 7 days of the date hereof.

☐ Reinspection Fee $ ______

☐ Penalty Fee

☐ Permits Required

Signed ______
INSPECTOR

Sample

Davis County School District
Inspection Report

PROJECT ____________________ DATE ____/____/____

ADDRESS ____________________ TIME ________ am pm

JOB # ______________

BASIC REFERRAL CHECKLIST

☐ 1-footing 2-fndn 3-bond beam ☐ framing ______________

☐ electrical ______________ ☐ mechanical ______________

☐ plumbing ______________ ☐ final ______________

☐ misc ______________________________

CORRECTIONS REQUIRED

☐ BUILDING PASSES INSPECTION CHECKED ABOVE

☐ REINSPECTION REQUIRED

☐ REINSPECTION FEE $ ________ INSPECTOR ______________

445 MARSAC AVE., P.O. BOX 1480, PARK CITY, UTAH 84060
PHONE (801) 645-5040

Sample

Property Address ____________ Lot No. ______ Date ______

Contractor ____________ Time ______

Permit No. ____________

Reason for Inspection ☐ CALLED ☐ ROUTINE ☐ COMPLAINT ☐ PICK UP

Inspection Kind
☐ COMM.
☐ RES.
☐ BLDG.
☐ MECH.
☐ SPECIAL
☐ ELEC.
☐ ZONING
☐ FIRE SPRINKLER
☐ PLBG.
☐ PREINSPECTION
☐ HOUSING

☐ grading
☐ footings
☐ foundation
☐ retain wall
☐ slab
☐ rebar
☐ struct. steel
☐ masonry
☐ columns
☐ frame
☐ rough
☐ nailing
☐ underground
☐ insulation
☐ drywall
☐ susp. ceiling
☐ trusses
☐ power
☐ flush test
☐ pressure test
☐ water meter
☐ laterals
☐ final
☐ other

RESULTS OF INSPECTION

see comments for explanation

☐ WORK APPROVED
☐ WORK INCOMPLETE
☐ WORK IN VIOLATION
☐

☐ make necessary corrections
☐ reinspection required
☐ reinspection fee required prior to reinspection
☐ prior violations not corrected
☐ prior violations corrected
☐ items listed below will be inspected at next regular inspection

☐ UNABLE TO MAKE INSPECTION ☐ Cannot locate structure or unit. ☐ Building inaccessible/locked. ☐ Need Revised Plans Approved ☐ Approved plans not available.

☐ Issued Stop Work Order, Do Not Proceed With Work
☐ Obtain Building, Elect., Plumbing, Mechanical Or Applicable Permits

COMMENTS

88306

Signed ____________
Park City Building Inspector

450

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Sample

NOTICE - This card shall be maintained in a conspicuous place on the job. Please call for all inspections. Inspections will be made the following day.

NOTICE - Approved Building plans are required on job site at time of each and every inspection.

NOTICE - No work of any kind, on any part of any building or structure requiring inspection shall be covered or concealed in any manner whatsoever, without first obtaining the approval of the Building Official in writing.

ALSO NOTE - The appropriate subcontractors must be written on the job record card, including their State and City Business License Numbers at the time of the inspection or there will be an automatic re-inspection fee assessed.

JOB DESCRIPTION	CONTRACTOR NAME	STATE LICENSE NO.	INSPECTOR COMMENTS
Excavating & Grading			
Footings			
Foundation			
Concrete - Flatwork			
Carpentry, remodeling & repairs			
Electrical			
Warm air heating & Ventilating			
Gas Piping & Venting			
Masonry			
Plumbing			
Boilers (steam & hot water heat)			
Piping of vacuum & air systems			
Refrigeration			
Air Conditioning			
Roofing			
Shingling & Shakes			
Insulation			
Drywall			
Perfataping & Finishing			
Fencing & Guardrails			
Sidings incl. Aluminum			
Fire Detection System			
Signal & Burglar Alarm System			
Glass & Glazing			
Plastering Stucco & Cement Coatings			
Fire Protection Sprinklers			
Painting			
Swimming Pools			
Tile, Ceramic, Mosaic			
Wrecking & Demo.			
Other Specialty Contractors			

Appendix F

Administrative Rule R392-200—

Design, Construction, Operation, Sanitation and Safety of Schools

R392-200. Health, Community Health Services, Environmental Services. **Effective 9/10/98**

R392-200. Design, Construction, Operation, Sanitation, and Safety of Schools.

R392-200-1. General Provisions.

A. Purpose. This rule shall be liberally construed and applied to provide minimum requirements for the protection of the health and safety of the school occupants and the general public.

B. Application. The provisions of this rule are applicable to the design, construction, operation, maintenance, safety, health, and sanitation of schools, their grounds, and accessory structures thereto.

C. Construction or Remodeling of School Buildings

1. On and after the effective date of this rule, all school buildings or appurtenances that are constructed or extensively remodeled shall be designed, constructed, remodeled, and maintained in accordance with the standards set forth in rule.

2. Architectural plans for new or for an extensive renovation of an existing facility shall be submitted to the Department or its designated representative for review and approval prior to construction. Any changes required for approval shall be included into the plans and adhered to in the construction of the facility.

3. Existing schools shall be maintained in accordance to the health and sanitary standards established in this rule.

D. Definitions

1. "Approved" means acceptable to the Director or local health officer based on his determination that there is conformance with appropriate standards and good public health practice.

2. "Department" means the Utah Department of Health or its authorized agents.

3. "Director" means the Executive Director of the Utah Department of Health, or designated representative.

4. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area, whether or not enclosing a building or set of buildings, and its associated premises that is used for the education of individuals and that may be owned and/or operated by public or private agencies.

5. "Hot Water" means water heated to a temperature of not less than 120 degrees Fahrenheit (49 degrees Celsius) at the outlet.

6. "Instructor" means teacher, teaching assistant, teacher's aid, or any other such individual responsible for a particular class.

7. "Local Health Officer" means the health officer of any municipal, county, or district health department, or his designated representative.

8. "School" shall mean any public or private educational institution or facility owned and/or operated by federal, state, or local governments, religious organizations, private agencies, or individuals.

9. "Solid Wastes" means any discarded organic matter, refuse, rubbish, hazardous waste,

special waste, garbage, trash, and other waste materials resulting from the operation of the facility.

10. "Toxic" means any substance that may have an adverse physiological effect on a person or persons.

11. "Wastewater" means sewage or water-carried wastes, and shall include, but not be limited to, the discharges from all plumbing fixtures or facilities.

R392-200-2. Site Selection.

A. Site Standards

1. The topography of the site shall permit the drainage of surface waters from the grounds without creating a nuisance during inclement weather, thawing periods, lawn sprinkling, or irrigation.

2. The school site shall not be located in an area where there is a history or high possibility of flooding, high ground water, snow or earth slides, earthquake fault, or an area that was a repository for hazardous substances.

3. The school site shall be located to eliminate the negative influence of railroads, freeways, highways, heavy traffic roads, industrial areas, airports and aircraft flight patterns, fugitive dust, odors, or other areas where auditory problems, malodorous conditions, or safety and health hazards exist.

R392-200-3. School Grounds.

A. General

1. Fences, if needed, shall be constructed of sufficient height around elementary school playgrounds to exclude animals and prevent children from entering local streets or parking lots. Fencing shall be constructed of smooth materials with no barbs or projections and shall be maintained in good repair.

2. Electrical transmission lines, poles, transformer boxes, and other electrical equipment shall be located to prevent an electrical or obstacle safety hazard. Well pumps or other electrical equipment on the school property shall be enclosed and protected with a minimum six feet high woven wire fence or other suitable enclosure.

3. Walkways shall be provided between the school building and other buildings on the school grounds. Walkways shall be graded to allow proper drainage, and constructed of smooth impervious materials to prevent a safety hazard. Walkways and parking areas shall be maintained in good repair.

4. Illumination shall be provided for walkways, building entrances, parking areas, roads, and similar areas, during hours of use.

5. Elevated lawn sprinkler heads shall not be permanently installed and shall not be left in place on playgrounds or other recreational areas.

6. Service roads, parking areas, and walkways shall be constructed and located to facilitate movement of vehicular and pedestrian traffic and to prevent or reduce safety hazards.

7. The playground area shall be located in a safe and supervised area. All parts of the

school grounds shall be kept free of weeds, holes, ditches, stones, ashes, cinders, pieces of wire or glass, tree stumps, dead limbs of trees, or other obstructions that create safety hazards or rodent harborage areas.

8. Playground equipment, if provided, shall be located to permit adequate supervision. Playground sites shall be located where the hazard of elementary school age children crossing streets or parking areas is eliminated.

9. During school hours dogs, cats, or other animals shall not be allowed on school property. Seeing eye dogs or animals used for school instructional purposes may be allowed if adequately controlled.

10. If bicycles are permitted at school, a designated area shall be provided for bicycle parking. The parking area shall be located where it will not create a safety hazard by obstructing building entry/exit ways, walkways, or vehicular traffic.

R392-200-4. Food Service.

A. General

1. The design, construction, installation, and operation of food service facilities and equipment shall be in compliance with R392-100 and other appropriate local regulations.

2. Food not prepared on site shall be obtained from approved sources and shall be transported and served in accordance with R392-100.

3. Local health department approval shall be obtained prior to any function where food will be served or prepared from other than school lunch facilities.

R392-200-5. Sanitary Facilities and Controls.

A. Water Supply - General

1. The water supply shall be of adequate volume and pressure and of a safe, sanitary quality and shall comply with the requirements of the State of Utah public drinking water rules. All bottled water shall comply with the bottled water requirements of the Utah Department of Agriculture.

2. If the water supply is interrupted for any reason, for 4 hours or more, the local health officer shall be notified. The local health officer may require the school to be closed or an approved alternative source of potable water shall be provided.

3. Non-potable water supply systems used for irrigation or similar purposes shall be operated in a completely separate storage and support system from potable water and shall be maintained in compliance with Section 19-4-112 of the Utah Code Annotated 1953 as amended.

4. Water supply pumps, storage, treatment facilities, and other mechanical equipment shall be protected from unauthorized access.

5. If water is to be supplied by the school's independent water supply system, plans and specifications for such a water system shall meet Utah State safe drinking water standards and shall be submitted to and approved by the Department of Environmental Quality prior to construction.

B. Wastewater - General

1. All wastewater shall be disposed of by a public sewage system or by a sewage disposal system constructed and operated according to the Utah Department of Environmental Quality wastewater disposal rules.

2. If a sewer service is interrupted for any reason, for 4 hours or more, the local health officer shall be notified. The local health officer may require the school to be closed or an approved alternate sanitary facility shall be provided.

3. All schools installing or modifying an on-site sewage disposal system shall submit plans to the health officer having jurisdiction for review and approval prior to construction or modification.

C. Plumbing - General. Plumbing shall be sized, installed, and maintained in accordance with the requirements of the Utah Plumbing Code.

D. Toilet Facilities - General. Toilet room facilities shall be located and available on each floor having classrooms or other instructional areas. Locked facilities are prohibited unless students have reasonable access to them or to other facilities that are reasonably accessible.

1. Toilet Rooms

a. Self-closing entrance doors shall be provided if privacy is not achieved using shielding to break the line of vision from outside the toilet room.

b. If a toilet room is designed for use by more than one person at a time, each toilet therein shall be enclosed on all four sides by a separate stall. The height of the stalls shall allow sufficient light or ventilation therein. The stall partitions and door shall be at least 16 inches from the floor.

c. In new or extensively remodeled establishments, toilet rooms shall be mechanically vented to the outside of the building. A system shall be installed to resupply the air that is exhausted.

d. Toilet rooms used by girls in grades 4 and above, and/or women shall have at least one conveniently located covered waste receptacle.

e. Each toilet room shall be provided with an easily cleanable waste container that shall be emptied as often as necessary, at least daily, and shall be kept clean.

f. All toilet room fixtures shall be kept clean and maintained in good repair.

g. Each toilet fixture shall be provided with a supply of toilet tissue at all times.

h. Toilet rooms shall be available for use at all times the school is open or used for school approved activities.

i. Conveniently located toilet facilities shall be easily accessible for all recreational facilities and areas utilized for school functions or approved activities by the school.

j. Rest room walls, floors, and ceilings shall be light colored, smooth, non-absorbent, easily cleanable, and shall be kept clean and maintained in good repair.

E. Lavatory Facilities

1. Lavatory Installation

a. Lavatories with hot and cold water shall be located in or immediately adjacent to toilet facilities.

b. Lavatories with hot and cold water shall be located in or conveniently adjacent to classrooms where normal activities require the students to wash their hands either before or after performing the classroom activities. Such classrooms shall include, but are not limited to, elementary classrooms, home economics, art, chemistry, biology, auto shop, wood and metal shop, and drama. The hot water at these locations shall not exceed 126 degrees F.

c. Lavatories, including soap, towels, and hot water shall be provided for all persons required to handle any liquids that may burn, irritate, or otherwise be harmful to the skin.

2. Lavatory Faucets. Each lavatory shall be provided with hot and cold water, utilizing a mixing valve or combination faucet. Steam-mixing valves are prohibited. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for an average of 10 seconds without the need to reactivate the faucet.

3. Lavatory Supplies

a. A supply of hand cleaning soap or detergent shall be conveniently available near each lavatory.

b. Sanitary towels in an appropriate dispenser or a forced-air mechanical hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be provided.

4. Lavatory Maintenance. Lavatories and all related fixtures shall be kept clean and maintained in good repair.

F. Shower Facilities

1. Shower Installation

a. Showers shall be provided for classes in physical education if students are required to change clothes. Each shower shall be provided with hot and cold water utilizing a mixing valve or combination faucet. Nothing in this section shall prohibit the use of water temperature controls to ensure the safety of the student. Shower floors and adjacent areas shall have a non-skid surface.

b. At least one shower head shall be provided for each sixteen students utilizing any adjacent dressing area at any one time.

c. Privacy showers shall be provided.

d. A dressing room area with non-skid floors and floor drains shall be provided adjacent to shower facilities and shall be equipped with benches constructed of easily cleanable impervious materials. Showers shall be constructed to prevent water flow into the drying and dressing room area. Carpeting is prohibited in dressing rooms.

e. In new or extensively remodeled facilities, shower area dressing rooms shall be mechanically vented to the outside of the building. A system shall be installed to resupply the air that is exhausted.

f. Toilet rooms shall be conveniently located to shower and dressing rooms.

2. Maintenance

a. Shower rooms and adjacent areas when used shall be cleaned at least daily.

b. Shower room walls, floors and ceilings shall be light colored, smooth, nonabsorbent, easily cleanable, and shall be kept clean and maintained in good repair.

3. Shower Supplies. If towels are supplied by the school, they shall be laundered to ensure exposure to a water temperature of 168 degrees F. for a combined wash and rinse period of at least 25 minutes or an equivalent washing procedure. Such towels, if provided, shall be furnished clean weekly or at time of reissue. The use of common towels is prohibited.

G. Drinking Fountains

1. General

a. Fountains shall be designed so the water stream will arch into the basin. The stream of water shall be of a sufficient height and constant pressure to enable the user to drink without touching the mouth guard. Vertical flow, bubbler type fountains are prohibited. Fountains shall be constructed of impervious material such as stainless steel, porcelain, vitreous china or enameled cast iron.

b. Fountains shall be kept clean and in good repair.

c. Fountains shall not be installed in toilet rooms or other areas where exposure to contamination from human wastes or toxic or hazardous materials could occur.

d. The height of the fountain at the drinking level shall be convenient to students utilizing the fountain.

e. Conveniently located drinking fountains shall be easily accessible for all recreational facilities and areas utilized for school functions.

f. If water under pressure cannot be made available, all bottled water that is provided shall comply with the bottled water requirements of the Utah Department of Agriculture, with a suitable faucet for the filling of individual cups. Individual single-service drinking cups shall be dispensed from an approved dispenser.

g. The use of common cups is prohibited.

H. Swimming Pools

1. General

a. Swimming pools shall be constructed, operated, and maintained in accordance with R392-302.

b. Plans for swimming pools, diving pools, or therapy pools intended for installation at any facility covered by this rule shall be reviewed and approved by the Department or its designated representative prior to installation.

I. Solid Wastes

1. Containers

a. Cleanable waste containers shall be available in each classroom, and shall be kept clean and in good repair.

b. Shops, chemistry labs, and similar areas shall have appropriate waste containers for solid waste disposal.

c. Solid wastes shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids.

d. Containers, refuse bins, compactors, and compactor systems located or stored outside shall be easily cleanable, shall be provided with tight-fitting lids, doors, and covers, and shall be kept covered. Containers designed with drains shall have drain plugs in place at all times, except during cleaning.

e. There shall be a sufficient number of containers to hold all the garbage, refuse, and other solid waste that accumulates.

f. Soiled containers shall be cleaned at a frequency that is adequate to prevent odors and insect and rodent attraction. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed as sewage and not allowed to enter any storm drain.

g. Suitable facilities, including hot water and detergent, shall be provided and used for washing containers.

2. Storage

a. Any solid wastes stored on the premises shall be inaccessible to insects, rodents, and other animals. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material that contains no garbage or food wastes need not be stored in covered containers, if such material is protected in an enclosure or baled so a litter problem or other nuisance is not created.

b. Solid waste storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect- and rodent-proof, and shall be kept free of odors.

c. Outside storage areas or enclosures shall be easily cleanable and shall be kept clean. Solid waste containers, refuse bins and compactor systems located outside shall be kept covered and properly located or stored on or above a smooth surface of nonabsorbent material, such as concrete or asphalt, that is kept clean and maintained in good repair.

3. Disposal

a. Solid waste shall be disposed of often enough to prevent the development of odor or the attraction or propagation of insects or rodents.

b. The open burning of any trash, garbage or other wastes on the premises is prohibited except as provided by law.

c. No disposal of solid waste shall occur on the premises.

J. Hazardous Wastes

1. General. Disposal of hazardous wastes shall comply with the Utah hazardous waste management rules and applicable local regulations.

K. Insect and Rodent Control

1. General. Effective measures intended to minimize the presence of rodents, flies, cockroaches, bedbugs, lice, or other vermin on the premises shall be utilized. The premises shall be maintained so that propagation, harborage, or feeding of vermin is prevented.

2. Openings. Openings to the outside shall be effectively protected against the entrance of insects, rodents, and other animals. Screens for windows, doors, skylights, intake and exhaust air ducts, and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than sixteen mesh to the inch.

3. Pesticide Application. Restricted-use pesticides shall not be used within buildings or on the grounds unless formulated and dispensed by a pesticide applicator certified by the Utah State Department of Agriculture. All labeled directions for use shall be specifically followed, and products without label directions are prohibited from use.

R392-200-6. Construction and Maintenance of Physical Facilities.

A. Floors, Walls, and Ceilings

1. Construction. All buildings shall be of sound construction with floors, walls, and ceilings constructed of nonporous, cleanable material and shall be maintained in good condition.

2. Lighting - General

a. A comfortable lighting environment shall be provided in every classroom with light quality that meets the requirements of all applicable parts of this rule.

b. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor, sufficient light intensities on instructional surfaces, including chalkboards, without causing excess intensity eyestrain.

c. All light fixtures located in student areas shall be shielded to protect the students from injury in case of bulb breakage.

d. Light intensity ratios shall not exceed levels for surfaces causing excessive eye accommodation. Instructional areas shall have predominantly light colors to obtain low brightness ratios. Instructional areas shall not exceed the following brightness ratios:

(1) Between the task and immediately adjacent surfaces, including between a task and a desk top; ratio 3:1

(2) Between the task and more remote darker surfaces, including between a task and the floor; ratio 3:1

(3) Between the task and the more remote lighter surfaces, including between a task and the ceiling; ratio 1:5

(4) Between windows or other luminous objects and surfaces adjacent to them, except the ratio between windows and adjacent chalkboards may be exceeded; ratio 20:1

(5) Between the chalkboard and the wall or other visually adjacent area; ratio 1:3

e. Reflectance of the finishes in instructional areas shall be within the following range 0:

(1) Percentage of Reflectances

a) Ceilings - 70 to 90

(b) Walls - 40 to 60

c) Floors - 30 to 50

(d) Chalkboards - 15 to 20

e) Desks and equipment - 35 to 50

f. Light fixtures shall be cleaned and repaired, and burned out bulbs or lamps replaced as often as necessary in order to maintain the illumination levels required in this section.

g. Any light fixtures emitting noise at a bothersome level shall be repaired or replaced.

B. Ventilation

1. General

a. Rooms shall be provided with natural or mechanical ventilation that admits fresh air and is sufficient to remove or prevent the accumulation of obnoxious odors, smoke, dust, and fumes. In classrooms where combustible vapors may accumulate, such vapors shall be vented either through a fume hood or by other adequate roomwide ventilation.

b. A minimum clean air replacement of 10 cubic feet per minute per person in classrooms shall be maintained. The lining of ducts with fibrous or asbestos materials is prohibited.

c. Air vents shall be placed so no person becomes chilled or overheated in any occupied room.

2. Special Ventilation

a. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

b. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside of the building.

C. Heating

1. Heating facilities shall be properly installed and vented and shall be maintained in a safe working condition. Unvented space heaters producing products of combustion are prohibited.

2. A temperature of 68-74 degrees F during winter months shall be maintained in classrooms. However, on a temporary basis, during a severe winter energy crisis, the temperature may be reduced to 65 degrees F. The temperature in a swimming pool area shall be warmer than the water temperature of the pool.

D. Cooling

1. By September 1 , 1998 the school district administrator shall develop a written plan to mitigate adverse health effects of excessive heat to students and staff at each school in his district. The plan, to be called the Classroom Temperature Health Intervention Plan, for each school shall:

a. include district medical, environmental, engineering and health staff in the development of the plan;

b. cover school days during the period September 1 through September 15; however, annual plans after 1998 shall cover the period May 1 through September 15;

c. specify the method by which the heat health hazard level shall be determined as required in R392-200-6-D-6;

(1) the plan must require that at least one temperature measurement be taken daily;

(a) the date, time, place, and temperature of the measurement must be recorded on a log to be kept at the school building administration office for two years. The log shall be made available to the local health officer at his request.

(b) school areas supplied by a properly operating air conditioning system are exempted from Subsection 6-D-1-c;

d. identify interventions for each of the heat health hazard levels listed in tables 1 and 2, and the procedures for ensuring their timely implementation;

e. include an emergency plan in individualized health care plans for all children with special health care needs as identified by a health assessment of the student population;

f. be filed with the local health officer by October 1, 1998;

g. be updated and filed with the local health officer prior to October 1, 1999. After October 1, 1999 the plan shall be updated as changes occur in the school population or in the school facilities and at least annually.

2. The school district administrator shall ensure that the plans required in R392-200-6-D-1 are executed effectively.

3. The school district administrator shall develop and file the plans required in R392-200-6-D-1 with the local health officer prior to the first day of classes for a new school beginning operation after September 1, 1998.

4. The school district administrator shall prepare a written evaluation of the implementation of the plan required in R392-200-6-D-1 and submit it to the local health officer prior to October 1, 1999.

5. The local health officer may require the school district administrator to correct a school plan required in R392-200-6-D-1 that he determines is ineffective at preventing adverse health

impacts of high heat on the students and staff of the school.

6. The school district administrator shall select one of the following two methods to determine the heat health hazard level in each school:

a. Method 1: Chart the temperature reading taken from a simple wall or hand held dry bulb thermometer into column 2 of table 1. Find the corresponding heat health hazard level in column 1;

(1) the thermometer must have a full range accuracy of plus or minus 2%;

b. Method 2: Properly use a sling psychrometer to determine the relative humidity. Chart the relative humidity into column 1 of table 2. Find the temperature reading taken from a simple wall or hand held dry bulb thermometer in one of the columns directly across from the relative humidity reading. Find the corresponding heat health hazard level at the top of the column in which the temperature is found.

(1) the thermometer must have a full range accuracy of plus or minus 2%;

TABLE 1

DRY BULB INDEX

Heat Health Hazard Level	Thermometer Temperature
Caution	80°-89.9° F
Extreme Caution	90°-99.9° F
Danger	greater than or equal to 100°F

TABLE 2

TEMPERATURE-HUMIDITY INDEX

% Relative	Dry Bulb Temperature (°F)		
Humidity	Caution	Extreme Caution	Danger
0	95.0-112.9	113.0-131.9	greater than or equal to 132.0
10	89.5-107.4	107.5-124.4	greater than or equal to 125.0
20	87.5-103.4	103.5-118.4	greater than or equal to 119.0
30	86.0-99.9	100.0-114.9	greater than or equal to 115.0
40	84.0-97.4	97.5-111.9	greater than or equal to 112.0
50	82.0-95.4	95.5-108.9	greater than or equal to 109.0
60	81.5-93.4	93.5-106.9	greater than or equal to 107.0
70	78.5-91.4	91.5-104.9	greater than or equal to 105.0
80	77.5-89.9	90.0-103.4	greater than or equal to 103.5

90	76.5-88.9	90.0-101.4	greater than or equal to 101.5
100	75.0-87.4	87.5-99.9	greater than or equal to 100.0

7. The school building administrator shall ensure that the local health officer is notified immediately when:

a. the heat health hazard level of Danger is reached anywhere inside the school where students or staff are present for an hour or longer; or

b. on the same day two incidents occur in the school where health symptoms, such as heat stroke, cramps and heat exhaustion, may have been caused by heat and a heat health hazard level of Caution, Extreme Caution, or Danger has been recorded in the school.

E. Maintenance of Heating, Ventilation and Air Conditioning Equipment.

1. The school building administrator has final responsibility to ensure that the heating, ventilating, and air-conditioning system inspection and necessary maintenance activities are conducted at proper time intervals according to the manufacturer's recommendations with qualified in-house or contracted service technicians to provide peak performance of all equipment and systems.

F. Cleaning Physical Facilities

1. General

a. Floors shall be cleaned at least daily.

b. Walls, ceilings, and attached equipment shall be kept clean.

c. Hose bibs with back flow prevention devices shall be provided with running water for washing walkways, courts, passageways, and other common use areas.

2. Utility Facility. In new or extensively remodeled facilities at least one utility sink or curbed cleaning facility with a floor drain shall be located on each floor and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories for this purpose is prohibited.

3. Custodian Closets

a. Custodial closets, equipment and supply storage rooms shall be kept clean and orderly and shall be kept locked if toxic supplies are present.

b. Separate storerooms or cabinets shall be provided for cleaning materials, pesticides, paints, flammables, or other hazardous or toxic chemicals, and for tools and maintenance equipment. These areas shall be kept locked and used for no other purpose and shall comply with the Uniform Fire Code.

c. Oiled mops, dust cloths, rags, and other materials subject to spontaneous combustion shall be properly stored in approved fire resistant containers as required by the Uniform Fire Code.

R392-200-7. Health and Safety.

A. Health

1. A centrally located room or area, with a readily accessible phone, shall be available for emergency use in providing care for persons who are ill, injured or suspected of having any

contagious disease. In new structures, a clinic room shall be provided and shall have lavatory facilities with hot and cold running water, soap, individual towels, first aid supplies, and lockable cabinet space for storage of first-aid supplies. Clinic rooms or areas used for emergency treatment and first-aid shall be kept clean, orderly, and in good repair. A school nurse or other appropriately trained individual shall be on the premises and available during normal school hours. In addition, at least two individuals shall be available that have an approved current basic first-aid certificate.

2. Each emergency care room or clinic area shall be provided with a cot or bed, and each cot or bed shall have a washable surface, or cover, or be provided with disposable sheets and pillowcases for each user. Multiuse sheets or covers, if used, shall be laundered after each use.

3. Prescription medications shall be present only on an individual prescription basis and shall be administered only as prescribed by appropriate personnel.

4. All prescription or over the counter medication administered by school personnel, shall be stored in a secure, locked drawer or cabinet.

5. Specified sleeping areas shall be provided with sleeping facilities including cots or pads. Washable or disposable covers, if supplied by the school, shall be maintained in good repair and shall be washed at least weekly and before reissue.

6. In injury high risk areas such as, but not limited to, shops, home economics, playgrounds, and gymnasiums, the instructor shall have an approved current basic first-aid certificate. A readily accessible first-aid kit shall be available in each high risk classroom area, and shall be maintained in good condition.

B. Safety

1. Instructional, athletic, or recreational equipment shall be kept clean, safe, and in good repair. Body contact equipment surfaces shall be routinely cleaned and sanitized at least weekly to minimize the potential of disease transmission.

2. Recreational equipment shall not have open-ended hooks, moving parts that could pinch or crush fingers, sharp edges or rough surfaces, or form rings or angles with a diameter more than 5 inches but less than 10 inches.

3. Outside recreational equipment other than swings shall be placed so that the intended activity has at least 10 feet clearance from fences, buildings, or other stationary objects that may cause injury. Swings shall have at least 16 feet clearance from objects that may cause injury.

4. Play equipment shall have handrails.

5. Recreational equipment that requires anchoring for its use, shall be securely anchored to the ground. Anchoring devices shall not protrude above ground level.

6. Handrails shall be properly installed on stairways, ramps, and outside steps, and shall be in good repair.

7. Gas supply lines serving science laboratories, home economics areas, shops, and other rooms utilizing multiple outlets shall have a master shut-off valve that is readily accessible.

8. Home economics areas, shops, offices and other rooms using electrically operated instruction equipment shall be supplied with a master electric switch readily accessible.

9. All shops shall be kept clean, orderly, and in a sanitary condition. Cleaning and sweeping shall be done in a way that contamination of the air is minimized.

10. Substances that are deemed harmful or hazardous to the health, safety and welfare of

instructors and/or students who use them shall be accompanied by specific directions with respect to the proper use, storage, handling and disposal of such supplies and to the potential risks or hazards associated with such supplies.

11. Provisions, including the development and posting of operating instructions, regulations, or procedures, for students shall be posted and reviewed in class in industrial arts, physical sciences, or vocational educational areas using equipment or hazardous devices. Such instructions shall be written at a sixth grade reading level.

12. Loose clothing including, but not limited to, ties, lapels, cuffs, torn clothing or similar garments that can become entangled in moving machinery shall not be worn when operating equipment.

13. Wrist watches, rings, or other jewelry shall not be worn in any class where they constitute a safety hazard.

14. Students shall confine their hair, if there is a risk of hair entanglement in moving parts of machinery.

15. Exposure to noise or toxic dusts, gases, mists, fumes, or vapors shall be sufficiently controlled so that a health hazard does not occur and shall be in accordance with Utah Occupational, Safety, and Health Administration (OSHA) requirements and applicable local regulations.

16. Approved safety equipment including, but not limited to, aprons, gloves, and safety glasses, shall be available to and worn by all students engaged in activities where there is exposure to hazardous conditions.

7. Safety zones consistent with OSHA requirements shall be marked around areas of equipment where there is danger of possible injury to students.

18. If there is exposure to skin or eye contamination with poisonous, infectious, or irritating materials, an emergency shower and a lavatory with hot and cold running water, soap, and towels or an eye wash fixture shall be available. Self-closing, slow-closing, or metered faucets are prohibited.

19. If there is exposure to infectious organisms, a lavatory with hot and cold running water, soap, and towels shall be available.

20. Where appropriate, a laboratory, auto shop, wood shop, and other such classrooms shall be equipped with an approved fume hood and the required make-up air system meeting applicable national design standards.

21. Facilities shall be available for the proper storage of clothing and of athletic, instructional, and recreational equipment and supplies.

22. Cleaning materials, tools, and maintenance equipment shall be safely stored.

23. Poisonous, dangerous or otherwise harmful plants and/or animals shall not be located in classrooms.

24. Toxic or hazardous materials including, but not limited to, chemicals, poisons, corrosive substances, or flammable liquids, shall be stored in a ventilated, locked fire resistant area with access only by authorized personnel. Such storage area shall comply with Uniform Fire Code and National Fire Protection Association requirements.

25. Oxygen, acetylene, and other high pressure cylinders, including empty cylinders, shall be properly secured and stored. The valve hoods shall be in place when the tanks are not in use.

26. No flammable, explosive, toxic, or hazardous liquids, gases, or chemicals shall be placed, stored, or used in any building or part of a building used for school purposes, except in approved quantities as necessary for use in laboratories, shops, and approved utility rooms. Such liquids, gases, or chemicals shall be kept in tightly sealed containers and stored in safety cabinets or approved storage rooms when not in actual use.

R392-200-8. Inspection and Enforcement.

A. Inspection Frequency

1. An inspection of a school shall be performed at least once every six months. Additional inspections of the school shall be performed as often as necessary for the enforcement of this rule.

2. Whenever a school is constructed or extensively remodeled, the owner or person in charge thereof shall notify the Department or local health officer having jurisdiction, to arrange for an inspection of the school facilities prior to being put into use in order to determine compliance with this rule.

B. Access. The Director, local health officer, or their representative after proper identification, shall be permitted to enter any school at any reasonable time for the purpose of making inspections to determine compliance with this rule.

C. Report of Inspections. Whenever an inspection of a school is made, the findings shall be recorded on an inspection report form acceptable to the Director.

D. Correction of Violations. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified.

E. Enforcement

1. The Director and local health officer are charged with the enforcement of the provisions of this rule.

2. The provisions of this rule shall not prevent any city, county, or city and county health department or district from adopting and enforcing standards of sanitation, health, safety, and hygiene for schools more strict than those contained in this rule.

3. Primary enforcement of this rule shall be the responsibility of the local health department. The Director shall periodically review and determine the adequacy of enforcement by local health departments and cooperate with and provide assistance to local health departments if he determines enforcement by a local health department is inadequate.

4. The Director or the local health officer may, if he determines a serious health hazard exists, order closed all or part of a school.

Appendix G

School Bus Operations Manual, Appendix 9—
Checklist for the Evaluation of School Driveways and Bus Loading/Unloading Areas

SCHOOL BUS OPERATIONS APPENDIX 9

CHECKLIST FOR THE EVALUATION OF SCHOOL DRIVEWAYS AND BUS LOADING/UNLOADING AREAS

It is recommended that the following form be used to evaluate the roadways and the passenger delivery/pickup points utilized by school buses at each of the schools serviced by the district pupil transportation program. A separate form should be completed for each school. A well-planned school will be identified by "yes" replies to all questions except 6, 7, 8 and 10 which will be answered "no."

CHECKLIST FOR THE EVALUATION OF SCHOOL DRIVEWAYS
AND SCHOOL BUS LOADING/UNLOADING ZONES

School District:______________________________ School:______________________________

Pupil Transportation Supervisor:______________________________ School Location:______________________________

Person Conducting Evaluation:______________________________ Date:______________________________

1. Are bus loading and unloading zones located within the school property	YES	NO	DOES NOT APPLY	REMARKS
2. If bus loading and unloading takes place on a public thoroughfare, is the roadway at least 40 feet wide?				
3. Do the roadways on the school property which are used by school buses, have at least 30 feet of paved width?.				
4. If diagonal parking is provided for buses in the loading/unloading area, is the paved surface of the area at least 60 feet wide?				
5. Is the school bus movement on the school grounds one-way with the right side of the bus toward the school building?				
6. Are school buses required to back onto the school property?				
7. Must school buses either back into or out of the loading/unloading areas?				
8. Does the path of school bus completely encircle the school building?				
9. Does the bus driver have adequate sight distances at all conflict points?				
10. Are crosswalks across the roadways utilized by school buses well marked?				

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Create a Safe Traffic Stream around School Sites

By J.L. Gattis, associate professor of civil engineering at the University of Arkansas in Fayatteville, Ark.
SCHOOL BUS FLEET

School buses operate in all kinds of traffic - automobiletraffic, truck traffic, bicycle traffic and pedestrian traffic. The proper applications of traffic engineering (or to use the more modern name, "transportation engineering") principles and practices can enhance both safety and convenience for all who mingle in the traffic stream, including school bus operators.

To design a good school transportation vehicle, the designer must know the attributes of the "parts" of the school bus "system." The parts include not only the physical properties of materials and the mechanical properties of engines, but also the properties of the riders and the driver, such as their dimensions and weight.

To design a good traffic system, the designer has to know the attributes of drivers, vehicles and pedestrians - and how a roadway can accommodate these attributes and limitations.

Keys to good layout

One cause of traffic problems found around so many schools is inadequate design - inadequate layout of the site or the streets. Sometimes the locationand arrangement of streets and parking areas with respect to surrounding developments and to the school building cause problems.

The following list can be considered by someone planning a new school site or evaluating an existing one.

1. Do people arriving at a school in cars tend to park nearthe main entrance? If so, a school bus loading area located near the main entrance may be occupied by parked cars. Unless people driving up to the school have an obvious alternative parking area, do not locate the bus loading area near the school's main entrance.
2. Separate the school bus parking/loading areas from theautomobile parking areas. This separates both buses and bus riders from automobile traffic.
3. Provide sight distance - advance distance for drivers to see things ahead and avoid crashes. Are parked vehicles blocking drivers' views of children about to enter a crosswalk? Are shrubs or tree limbs blocking views of warning signs? Parking prohibitions and limb trimming may help.
4. Give the driver time and distance to see and react to upcoming decision points, such as turns, crosswalks or any place a driver may have to take some action. Don't surprise a driver. For instance, after turning a corner (whether on a street or in a parking lot), there needs to be some distance for the driver to straighten the vehicle and look ahead before reacting to anything. So don't require yet another turn or locate a crosswalk right after a turn is made.
5. Related to #4, driveways should not be located too close to nearby street intersections. Doing so will create offset or dog-leg intersections with other streetsor high-volume driveways. Offset intersections can create erratic traffic patterns and detract from drivers' abilities to look out for pedestrians.
6. Skewed driveway and street intersections (those not at right angles) can cause problems. Intersection

angles should be between 75 and 90 degrees.

7. It is often desirable for parking lot exit driveways to have two lanes, one for left-turning vehicles and one for right turners. This helps reduce congestion, because the right-turning cars can proceed while the left turners are waiting for traffic from the right to clear.
8. Lane-use signs and pavement markings specified by the federal Manual on Uniform Traffic Control Devices (MUTCD) should be employed to demark traffic lanes. The examples in the MUTCD represent decades of experience with what works and what doesn't.
9. Signs, utility poles and other appurtenances should not be too close to the edge of the traffic lanes or parking areas. Objects within striking distance of an overhanging bumper will be struck. Even for low-speed situations, the major engineering manuals recommend at least a 1.5- to 2-foot clearance from the face-of-curb top the near edge of any roadside appurtenance. It is not unusual to see sign installation crews place the sign pole behind the curb, but not allow for the width of the sign, so the sign itself protrudes out into the space occupied by vehicles.
10. A school bus is wider and longer than a passenger car, so it requires more room to maneuver. School buses also have much greater offtracking on sharp turns. Lanes and aisles intended for school buses need to be wider so the bus will not sideswipe other vehicles. The designer must check driveways and streets intended for school bus use to make sure that all intersections and curves provide plenty of room for the bus to turn.

The designer may even need to make measurements of the turning path taken by school buses and provide a margin in excess of the minimum space needed for school buses.

Recently published results of field tests conducted at the University of Arkansas included drawings of the measured turning paths of the largest Type C and D school buses. The researchers observed that the buses rear ends "kick out" past the trace of the wheels during the beginning of a turn.

Reallocating bus space

If the available space for school buses to drive or park in is inadequate and causing problems, school bus operations sometimes can be improved by reallocating the existing space. Two ways to do this are prohibiting parking and converting to one-way operation.

Parking prohibitions can eliminate parked cars from along the curb, freeing-up more space for school buses to move or to park. On-street parking prohibitions may be opposed by businesses or residences that rely on curbside parking, but if the business owner or residents feel they have enough off-street parking to satisfy their needs, they may support on-street parking prohibitions as a way to clear up street congestion.

Cars parked at inappropriate places within the school's own parking lots and drives can also cause problems. But before you install No Parking signs within parking lots, make sure the local policies and ordinances permit the necessary enforcement, such as ticketing or towing.

Whether the parking restrictions are on a public street or in a parking lot, the prohibitions must be frequently enforced to be effective. There will be fewer hard feelings among the driving public if the police can wave away potential parking violators before they exit their cars, rather than ticketing them after they have parked.

4.0

The one-way solution

If traffic is currently blocking a relatively narrow street adjacent to a school site, one possible solution is to convert the street to one-way operation. The street may operate as one-way only during the school rush hours, or it may be a one-way street 24 hours a day.

One-way operation has both advantages and disadvantages. One-way operations may not be appropriate or feasible under the following circumstances.

- The street is a major or through street. In such a situation, conversion to one-way may disrupt area or city-wide traffic patterns, and have an adverse effect on many motorists. On the other hand, if a situation permits the creation of a pair of one-way streets, one in each direction, it may work out.
- There is no convenient alternative route. A one-way conversion may require motorists to drive out of their way, or in extreme cases, may make it impossible to drive to certain sites because there is no other route.

The traffic problems can be addressed by other means. However, it may be feasible to implement one-way operations when the following conditions exist:

- Owners of residences and businesses along the street are inconvenienced by the school traffic, and an overwhelming majority has expressed a preference for a conversion to one-way. A city may wish to obtain signatures from owners along the street, expressing support for one-way conversion.
- The section of street to be converted is relatively short, and much of the traffic is school-related.
- There are easily available alternate streets to use in lieu of the one-way street.
- The street to be converted has few or no intersecting streets and driveways, so there is a reduced possibility that a driver will pull out into the one-way street going the wrong direction.

You may find that converting driveways inside the school site to one-way operation will also help clear up congestion and eliminate safety problems. Whether on-street or within the site, check to see if the one-way pattern will orient school buses or other vehicles so children exiting the right side of the vehicle have to cross more traffic streams than before; sometimes, this extra crossing distance may be objectionable.

When determining where to install signs, check to see that no matter which route incoming traffic comes from, drivers can see either a One Way or a Do Not Enter sign.

Safety is in the details

One experience we can appropriate from the safety experts is that it takes attention to small and subtle details to eliminate hazards. A ceiling-high stack of unsteady watermelons at the grocery store may attract attention, but over time it's more likely that the small bit of fruit peel on the floor will be what knocks more people off their feet.

It's hard to get someone to pay attention to the banana peel on the floor when everyone is pointing up to the watermelon pile. Hopefully, you can find a moment when there are no big stacks of watermelons, so some attention can be given to these "details" that can improve your school bus operation.

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Appendix H

Utah State Office of Education

Guidelines and Review Checklist for Geologic-Hazards Reports for New Utah Public School Buildings

Utah State Office of Education - Guidelines and Review Checklist for Geologic-Hazards Reports for New Utah Public School Buildings

The purpose of the following guidelines and review checklist is to assist in the preparation of geologic-hazard reports for new Utah public schools, and to aid in the review of these reports by the Utah Geological Survey (UGS), 1594 West North Temple, Suite 3110, P.O. Box 146100, Salt Lake City, Utah 84114-6100; telephone 801-537-3300.

The UGS review is performed under State Office of Education Rule R277-455 "Standards and Procedures for Building Plan Review," to fulfill the intent of the requirement that the building site be inspected for geologic hazards by the UGS. The purpose of the UGS review is to ensure that the site-specific geologic-hazard investigations are sufficiently thorough, the report findings regarding identified hazards are valid, any proposed mitigation measures are reasonable, and geologic hazards are addressed uniformly and effectively throughout the state. The suitability of the site relative to geologic hazards must be demonstrated.

This advisory checklist is non-regulatory, but does cite relevant sections of the 1997 Uniform Building Code (UBC) and indicates specific geologic hazards that should be addressed for a complete and adequate geologic-hazards assessment of the site. The 1997 UBC can be obtained from the International Conference of Building Officials in Whittier, California; phone (800) 284-4406 or the web-site address http://www.icbo.org. This checklist will be updated as necessary to reflect future building code changes, new technical methods, geologic publications, and web-site addresses.

Because of the nature of geologic hazards, both engineering geologists and engineers must often prepare geologic-hazards reports. Involvement of both engineering geologists and engineers will generally provide greater assurance that geologic hazards are properly identified, assessed, and mitigated. If hazard-evaluation or risk-reduction measures include engineering analyses, design, or recommendations, they should be reviewed by a qualified engineer.

The Association of Engineering Geologists (AEG) Utah Section (1986), *Guidelines for Preparing Geologic Reports in Utah*; AEG Utah Section (1987), *Guidelines for Evaluating Surface Fault Rupture Hazards in Utah*; and UGS, *Guidelines for Evaluating Landslide Hazards in Utah,* UGS Circular 92 (Hylland, 1996), provide guidance in the preparation of geologic-hazard reports.

A glossary of geologic hazard terms follows the reference list. Numerous additional geologic-hazard references can be found on the UGS web site: http//www.ugs.state.ut.us. The UGS maintains a statewide geologic-hazards bibliography (HAZBIB; Harty and others, 1992). The National Earthquake Hazards Reduction Program (NEHRP) national seismic hazards maps and current earthquake fault parameters (magnitudes, slip rates, fault length, etc.) prepared by the U.S. Geological Survey (Frankel and others, 1996) are available at: http://geohazards.cr.usgs.gov/eq/. The record of historical earthquakes in Utah is maintained by the University of Utah Seismograph Stations, (801) 581-6274, and are available at: http://wwwseis.utah.edu/html/earthquakecatalog.html.

USOE Guidelines and Review Checklist for Geologic Hazards

Project:______________________________ USOE Project No:______________________________

Location:______________________________ School District:______________________________

Reviewed by:__________________________ Date Reviewed:______________________________

Guidelines	**Review Checklist**
1. Project location and description (size, type of construction, intended foundation system, grade elevations, square footage of building structure, UBC occupancy category). Provide a marked location on index map using 71/2-minute topographic map, indicate the 1/4-section, township, and range, and provide latitude and longitude to three decimal places (for example, 40.761° N, 111.890° W).	☐ Adequately Documented ☐ Additional Location and Description Requested
2. Engineering-geologic map, geologic cross sections, and description of geologic units, geologic structure, and hydrogeology. Describe site geology according to *AEG Utah Section (1986), Guidelines for Preparing Engineering Geologic Reports in Utah*, and *American Society for Testing Materials (ASTM) (1993), ASTM D-240-93, Standard Guide to Site Characterization for Engineering, Design, and Construction Purposes*. The degree of detail should be compatible with the geologic complexity and type of building structure. For hillside sites include slope-stability evaluation of both the site and immediately adjacent property. The geologic map should be 1:24,000 scale or larger (for example, 1:1,200 or 1:480). List photo numbers, date, and scale of stereoscopic aerial photographs used.	☐ Adequately Documented ☐ Additional Geologic Data Requested
3. Regional fault map showing distance to faults and fault orientation of all UBC type A and B faults within 15 km (10 mi) of the site. Tabulate fault distances and report in order by increasing distance.	☐ Adequately Documented ☐ Additional Fault Data Requested
4. Subsurface engineering geologic/geotechnical information (specific project plan map showing exploration sites, areas of existing and planned cut/fill, trenches, boreholes, etc.). Site geologic cross section(s) summarizing subsurface geologic conditions is recommended. Trench logs and borehole logs must be provided.	☐ Adequately Documented ☐ Additional Subsurface Data Requested
5. Evaluate the surface-faulting hazard for any faults with Holocene displacement in accordance with *AEG Utah Section (1987), Guidelines for Evaluating Surface-Fault-Rupture Hazards in Utah*,	☐ Adequately Documented ☐ Additional Data Requested

for sites within surface-fault-rupture special-study areas, defined at a minimum, as the area within 500 feet of the fault on the downthrown side and 250 feet on the upthrown side. These zones are defined in local-government ordinances along the Wasatch Front. We recommend that no building be constructed within 50 feet of the trace of a fault with Holocene displacement. See also Bonilla and Lienkaemper (1991) and McCalpin (1996).

6. Evaluate the seismic ground-shaking hazard. State whether the site is within seismic zone 1, 2B, or 3 using figure 16-2, 1997 UBC and give recommendations regarding which seismic zone specifications to use in construction. Include recommendations regarding consideration of near-source effects of UBC type A and B faults for sites within seismic zones 2B and 3 1997 UBC § 1629.4.2 Table 16-T (***near-source effects are only required to be considered in seismic zone 4 by the UBC***). McCalpin and Nishenko (1996) provide seismic-source parameters for the Wasatch fault, Hecker (1993) provides information for Quaternary faults statewide. Characterize the upper 30 meters (100 feet) of geologic subgrade of the building site(s) from Table 16-J and §1636 of 1997 UBC to determine the soil-profile type. A reference list for UGS earthquake publications can be found at http://www.maps.state.ut.us/earthqli.htm.

☐ Adequately Documented
☐ Additional Seismic Data Requested

7. In seismic zones 2B and 3, evaluate the potential for liquefaction and soil-strength loss §1804.5, 1997 UBC (***liquefaction is only required to be considered in seismic zones 3 and 4 by the UBC***). The evaluation should determine the potential for liquefaction given the soil and ground- water conditions and assess potential consequences of any liquefaction and soil-strength loss, including an estimation of differential settlement, lateral movement, or reduction in foundation soil-bearing capacity, and discuss mitigating measures. The evaluation should address the possibility of local "perched" water tables, the raising of ground-water levels by septic-tank soil-absorption systems and landscape irrigation, and the presence of locally saturated soil units at the site. The need for detailed studies can be initially assessed with the liquefaction-potential maps for various parts of the state. These maps however, do not preclude the necessity for site-specific investigations. Liquefaction-potential maps published by the UGS can be found at http://www.maps.state.ut.us/liquefac.htm. For general information, refer to Youd and Idriss (1997) and other pertinent geotechnical publications. From site boreholes report Standard Penetration Test (SPT) standard SPT blow-counts using ASTM D1586-92 (ASTM, 1992). Report depth to water table and cyclic stress ratio (CSR). Factors-of-safety for liquefaction must be FS ≥ 13. The Cone Penetration Test (CPT), ASTM D3441-94 (ASTM, 1998), may be

☐ Adequately Documented
☐ Additional Liquefaction Data Requested

used, but only concurrent with SPT data for reliable correlation. If published maps apply, reference the liquefaction potential for site. Determine likely ground-failure mechanism and amount of displacement, and evaluate cost-effective remedial options for liquefaction if FS < 1.3. Remedial options may include: dynamic deep compaction, vibro-replacement, vibro-displacement, stone columns, dewatering systems, caissons, and grade-beam foundations, mat foundations, etc. Evaluate criteria for SPT- or CPT-based acceptance testing to demonstrate satisfactory ground remediation.

8. Evaluate the potential for seismically-induced settlement or ground failure (other than liquefaction) such as from sensitive clay or loose granular soil, and tectonic subsidence accompanying surface faulting. Keaton (1986) provides information on the potential consequences of regional tectonic subsidence along the Wasatch fault.

☐ Adequately Documented
☐ Additional Data Requested

9. Evaluate the geologic subgrade for problem soil or rock and shallow ground water. The evaluation should consider collapsible, soluble, expansive, organic, erodible, and piping soil and/or rock hazards. The evaluation should also consider non-engineered fill, mine subsidence, shallow bedrock, and active sand dunes. When evaluating the depth to ground water, consider perched, development-induced, and other ground-water conditions as outlined in sections 7 (liquefaction) and 10 (slope stability)

☐ Adequately Documented
☐ Additional Data Requested

10. Evaluate the potential for slope failure in accordance with *Guidelines for Evaluating Landslide Hazards in Utah* (Hylland, 1996) and *Landslides - investigation and mitigation* (Turner and Schuster, 1996). The slope-stability evaluation must consider immediately adjacent property, appropriate seismic ground-shaking levels, and development-induced ground-water conditions. The evaluation must consider rock-fall, debris-flow, and snow-avalanche hazards where appropriate. A UGS landslide reference list can be found at: http://www.maps.state.ut.us/landslid.htm.

☐ Adequately Documented
☐ Additional Data Requested

11. Evaluate the potential for flooding and erosion on alluvial fans and from streams, lakes, dam failure, and canals and ditches. Plot the building site on official Federal Emergency Management Agency flood maps if within or near the "100-year" flood zone. UGS Map 111 addresses flood hazards from lakes and dam failures in Utah (Harty and Christenson, 1988).

☐ Adequately Documented
☐ Additional Data Requested

12. Review and cite geologic hazard zones and maps, ordinances, and applicable zoning and building regulations required by the City or County.

☐ Adequately Documented
☐ Review City/County Regulations

13. Evaluate the potential for seiches if the site is near lakes, or reservoirs.

☐ Not Applicable
☐ Seiche Data Requested

14. List references cited (geology, seismology, geotechnical engineering). Up-to-date geologic-hazards information can be found using American Geological Institute's *GeoRef* CD-ROM software or UGS Hazard Bibliography *(HAZBIB)* (Harty and others, 1992), in current UGS and USGS publications, and monthly scientific journals such as Seismological Society of America *Bulletin*, American Geophysical Union *Journal of Geophysical Research*, Association of Engineering Geologists/Geological Society of America *Environmental and Engineering Geoscience*, Earthquake Engineering Research Institute *Earthquake Spectra*, and American Society of Civil engineers *Journal of Geotechnical Engineering*. Avoid using out-dated and superceded maps and reports.

☐ Adequate References
☐ Additional Published Geology / Seismology References Requested

15. Signature of investigating geologist and engineer. The report must be signed by the engineering geologist who conducted the investigation. The State of Utah currently has no statutory definition of an engineering geologist; however, some local governments define in ordinances the minimum qualifications of geologists who can submit reports. The UGS considers an engineering geologist a person who through education, training, and experience is able to assure that geologic factors affecting engineering works are recognized, adequately interpreted, and presented for use in engineering practice and/or the protection of the public; this person should have at least a four-year degree in geology, engineering geology, or a related field from an accredited university and at least three full years of experience in a responsible position in the field of engineering geology. If a geotechnical report or other engineering analysis and recommendations are included with the geologic-hazard report a registered professional engineer must also sign the report or pertinent sections.

☐ Geologist/Engineer Signature (s) Provided
☐ Signature (s) Required

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GLOSSARY OF GEOLOGIC-HAZARDS TERMS
UTAH GEOLOGICAL SURVEY

Active sand dunes - Shifting sand moved by wind. May present a hazard to existing structures (burial) or roadways (burial, poor visibility).

Alluvial fan - A generally low, cone-shaped deposit formed by deposition from a stream issuing from mountains as it flows onto a lowland.

Alluvial-fan flooding - Flooding of an alluvial-fan surface by overland (sheet) flow or flow in channels branching outward from a canyon mouth. See also, Alluvial fan.

Avalanche - A large mass of snow or ice moving rapidly down a mountain slope.

Canal/ditch flooding - Flooding due to overtopping or breaching of man-made canals or ditches.

Collapsible soil - Soil that has considerable strength in its dry, natural state but that settles significantly due to hydrocompaction when wetted. Usually associated with young alluvial fans, debris-flow deposits, and loess.

Dam-failure flooding - Flooding downstream from a dam caused by an unintentional release of water due to a partial or complete dam failure.

Debris flow - Slurry of rock, soil, organic matter, and water that flows down channels and onto alluvial fans. May be initiated by erosion during a cloudburst storm or by a shallow (failure plane less than 10 feet deep) slope failure on a steep mountain slope. Debris flows can travel long distances from their source areas, presenting hazards to life and property on downstream alluvial fans.

Earthquake - A sudden motion or trembling in the earth as stored elastic energy is released by fracture and movement of rocks along a fault.

Erosion - Removal and transport of soil or rock from a land surface, usually through chemical or mechanical means.

Expansive soil/rock - Soil or rock that swells when wetted and contracts when dried. Associated with high clay content, particularly sodium-rich clay.

Flooding (earthquake) - Flooding caused by seiches, tectonic subsidence, increases in spring discharge or rises in water tables, disruption of streams and canals. See also, Seiche; Tectonic subsidence.

Ground shaking - The shaking or vibration of the ground during an earthquake.

Lake flooding - Shoreline flooding around a lake caused by a rise in lake level.

Landslide - General term referring to any type of slope failure, but usage here refers chiefly to large-scale rotational slumps and slow-moving earth flows.

Liquefaction - Sudden large decrease in shear strength of a saturated cohesionless soil (generally sand, silt) caused by collapse of soil structure and temporary increase in pore water pressure during earthquake ground shaking. Liquefaction may induce ground failure, including lateral spreads and flow-type landslides.

Mine subsidence - Subsidence of the ground surface due to the collapse of underground mines.

Non-engineered fill - Soil, rock, or other fill material placed by man without engineering specification. Such fill may be uncompacted, contain oversized and low-strength or decomposable material, and be subject to differential subsidence, and may have low bearing capacity and poor stability characteristics.

Organic deposits (Peat) - An unconsolidated surface deposit of semicarbonized plant remains in a water-saturated environment such as a bog or swamp. Organic deposits are highly compressible, and have a high water-holding capacity and can oxidize and shrink rapidly when drained.

Piping - Soil or rock subject to subsurface erosion through the development of subsurface tunnels or pipes. Pipes can remove support of overlying soil/rock and collapse.

Problem soils - Geologic materials with characteristics that make them susceptible to volumetric changes, collapse, subsidence, or other engineering-geologic problems.

Radon - A radioactive gas that occurs naturally through the decay of uranium. Radon can be found in high concentrations in soil or rock containing uranium, granite, shale, phosphate, and pitchblende. Exposure to elevated levels of radon can cause an increased risk of lung cancer.

Rock fall - The relatively free falling or precipitous movement of a rock from a slope by rolling, falling, toppling, or bouncing. The rock-fall runout zone is the area below a rock-fall source which is at risk from falling rocks.

Sensitive clay - Clay soil which experiences a particularly large loss of strength when disturbed and is subject to failure during earthquake ground shaking.

Shallow bedrock - Bedrock at depths sufficiently shallow to be encountered in foundation excavations.

Shallow ground water - Ground water within about 30 feet of the ground surface. Rising ground-water tables can cause flooding of basements. Shallow ground water is necessary for liquefaction.

Slope failure - Downslope movement of soil or rock by falling, toppling, sliding, or flowing.

Soluble soil/rock (Karst) - Soil or rock containing minerals which are soluble in water, such as calcium carbonate (principal constituent of limestone), dolomite, and gypsum. Dissolution of minerals and rocks can cause subsidence and formation of sinkholes. See also, Gypsiferous soil.

Stream flooding - Overbank flooding of flood plains along streams; area subject to flooding generally indicated by extent of flood plain or calculated extent of the 100- or 500-year flood.

Subsidence - Permanent lowering of the normal level of the ground surface by hydrocompaction, piping, karst, collapse of underground mines, loading, decomposition or oxidation of organic soil, faulting, or settlement of non-engineered fill.

Surface faulting (surface fault rupture) - Propagation of an earthquake-generating fault rupture to the ground surface, displacing the surface and forming a scarp.

Tectonic subsidence - Subsidence (downdropping) and tilting of a basin floor on the downdropped side of a fault during an earthquake.

Appendix I
Example Phase I Environmental Site Assessment

AGEC
Applied Geotechnical Engineering Consultants, Inc.

PHASE I ENVIRONMENTAL SITE ASSESSMENT

PROPERTY NORTHEAST OF 9000 SOUTH AND 700 EAST

SANDY CITY, UTAH

PREPARED FOR:

SNK CALIFORNIA, INC.
FOUR EMBARCADERO CENTER, SUITE 3700
SAN FRANCISCO, CA 94111-4106

ATTENTION: JAY JOHNSON

PROJECT NO. 29794 JUNE 8, 1994

7109 South 185 West, Suite A • Midvale, Utah 84047 • (801) 566-6399 • FAX (801) 566-6493

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SUMMARY AND CONCLUSIONS

1. Based on an historical review of government records and aerial photographs, the site has been used for farming, grazing or has laid fallow since at least 1940. A large barn appears to extend a few feet onto the far south side of the site. The 1971 photo indicates that there was a small shed/corral in the north central portion of the site and has since been removed. Fill material consisting of excavated material and construction debris from condominiums to the west was placed on the north portion of the site in the mid-1980's.

2. Agency inquiry indicates that there are no facilities within one mile of the site that are listed on the NPL or RCRA TSD lists. There are no facilities on, adjacent or within one-half mile of the site listed on the RCRA, CIRCLIS or ERNS lists. There are 3 sites listed on the LUST list within one-half mile of the property being investigated. All 3 sites are not considered to be upgradient of the study area. The closest solid waste disposal site is greater than 6 miles to the west and the closest UST site is approximately 200 feet to the southwest. All of these sites are sufficiently distant or not upgradient that they should not pose an environmental concern for the property.

3. Our site visit and owner/occupant interviews indicate no evidence of hazardous materials or underground storage tanks at the site.

4. No evidence of environmental concerns beyond those typical of the property use were identified based on a reconnaissance of the property, a review of aerial photographs and government records and interviews with past owners, people familiar with the site and government personnel.

SCOPE

This report presents the results of a Phase I Environmental Site Assessment for approximately 16 acres of land located northeast of 9000 South and 700 East in Sandy City, Utah. The property is located in the Southwest Quarter of the Northwest Quarter of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian in Salt Lake County, Utah. A review of the site was conducted to identify potential adverse environmental conditions on the property due to present or previous activities or land uses. Our study includes the review of topographic maps, aerial photographs taken at different times, government agency records, a review of historical records and interviews with past owners. A visual observation of the site and adjacent properties was performed in an attempt to identify the presence of hazardous materials or conditions which would indicate the presence of hazardous materials.

This report has been prepared to summarize the data obtained during the study and to present our conclusions. Results of the environmental site assessment are summarized and conclusions relating to the apparent environmental conditions at the site are discussed.

SITE CONDITIONS

At the time of our site visit, an old large barn appears to extend a few feet onto the south end of the property. The barn appears to be used for storing hay. There is a small horse corral on the north side of the southwest portion of the property. The northern portion of the site contains a considerable amount of fill. The fill exposed at the surface consists of silty sand with occasional chunks of concrete. There is a large pile of fill approximately 12 to 15 feet high on the east side of the site. There is an old concrete vault box located on the west side of the central portion of the site. There are old piles of wood and other construction debris in the northeast portion of the site. There are several old pieces of farm equipment, along with an old trailer and a rusted, empty 55-gallon drum on the east side of the central portion of the site. There is an irrigation ditch with water flowing in it on the north side of the site and an old dry irrigation ditch on the east side of the site.

The site is fairly flat with a downward slope to the west of approximately 15 feet.

The site is covered with tall grass and weeds, with medium to large trees and thick brush along the east side, in the northeast portion and through the central portion of the site. The southern portion is grass covered and appears to be used for grazing. There are large power lines running along the north side of the site.

ADJACENT PROPERTIES

The site is bordered by mostly undeveloped land covered by thick brush with large trees. There is a gravel pit further to the southeast and a golf course to the northeast. The south side is bordered by a small strip of pasture land with horses and 9000 South Street. The southwest side is bordered by a house with a garage. The Utah Board of Education building and the Jordan District Technical Center is further south. The south end of the west side is bordered by the Draper Bank and Trust. The central and north portions of the west side is bordered by the Harvest Lane condominiums. Zak's garage, older homes and vacant fields are further to the west. The north side of the site is bordered by Cy's Road with cultivated fields being further north. The Sandy City Cemetery is southwest of 9000 South and 700 East Streets. The outlying areas to the north and south are mainly residential.

GROUNDWATER CONDITIONS

Based on the topography of the area, the direction of groundwater flow is in a westerly direction.

The Utah Division of Water Rights was contacted to determine the location of water rights diversions within a one mile radius of the study area. Eighty-one water diversion points were listed within one mile of the property. The Utah Division of Water Rights indicates that the water is for municipal, domestic, irrigation, stock watering and other uses. A list of the Water Rights Points of Diversion is included in the Appendix.

SURFACE WATER

At the time of our site investigation, there was water flowing in the irrigation ditch on the north side of the site. The source for the water is Little Cottonwood Creek. The Sandy Irrigation Canal is located approximately 300 feet east of the property. The canal is presently dry, but will be used when flows from Little Cottonwood Creek are insufficient later in the summer. Water for the canal comes from the East Jordan Canal which is pumped from the Jordan River which comes from Utah Lake. The canal does not cross through or near any known environmentally hazardous sites upstream of the study area. No other surface water was observed on or adjacent the property.

HISTORICAL REVIEW

Aerial Photograph Review

Aerial photographs taken of the property and surrounding areas in 1952, 1965, 1971 and 1987 were reviewed for the study. The photographs reviewed indicate that the property was used for farming, grazing or was left fallow. The 1987 photograph shows the Harvest Lane condominiums to the west, along with a dirt road leading to the north portion of the site in the area where the fill was placed. The outlying areas changed from mainly agricultural to residential.

A brief description of changes observed on and adjacent to the site, based on our review of photographs is given below.

1952 - Most of the central portion of the site is covered with orchards. The north, south and northwest portions appear to be farmed. Part of a large barn extends onto the south side of the site. There are farm houses with barns to the west of the property. The outlying areas to the north, east and south are agricultural and there are some residential areas further to the northwest.

1965 - The orchard areas appear smaller with more land being cultivated. The barn is still present on the south side of the property. The outlying areas are still mainly agricultural.

There is an increase in residential areas to the north and further south. There are gravel pits to the east and southeast.

1971 - A horse shed with corral is in the center of the north half of the property. Most of the orchard area is gone and the southern portion of the site appears cultivated. The barn still appears on the south end of the property. There is an increase in vegetation in the area adjacent to the east. There is a decrease in agricultural land in the outlying areas with an increase in residential areas.

1987 - The north portion appears to have been cleared with a dirt road leading to a large pile of fill on the east side. The horse shed and corrals are gone. The barn still appears on the south end of the property. The south portion is still being farmed and the central portion appears fallow. The Harvest Lane condominiums appear directly west of the site. The outlying areas are mostly residential with very little farming. There is a large gravel pit to the southeast and a smaller gravel pit to the east which appears cleared and levelled. There is an increased amount of vegetation to the east. There is an increase in commercial buildings along 700 East Street.

Property Tax Files

The Salt Lake County Assessor was contacted to research tax records for the property. The property listed under tax numbers 28-05-151-011 (1.11 acres), 050-4001 (.41 acres), 4002 (3.83 acres) is owned by Kenneth Pearson. The properties listed under tax numbers 28-05-151-037 (2.7 acres), 052 (.41 acres) is owned by American Equity Corporation. The tax numbers listed as 28-05-151-056 (2.95 acres), 062 (4.94 acres), 063 (.18 acres) is owner by Carilo Olabarri.

The Salt Lake County Recorder records were researched. These records indicate that the south portion of the site was sold to Kenneth A. Pearson by Lilli P. Wilson in October, 1939. The central portion of the site was sold to Leslie E. Hancock by Florence Watkins in June, 1940. Part of the north portion of the site was owned by Nephi Larson before 1940 and sold to Carilo Olabarri in July, 1969. The central portion of the site was sold to Jim Motsumarri in 1961. American Equity purchased the central portion of the site in 1994. The records indicate that during the 1980's part of the property was purchased by Sandy Limited Partnership, involving the Harvest Land condominiums, which was later lost in a trustees deed to Doug Motsumurri. Part of the north portion of the site was sold to Motsumurri in 1961 and to Willard Ericksen in the early 1980's and then to Carilo Olabarri in 1993.

AGENCY INQUIRY

1. Federal NPL Site List

The National Priorities List (NPL) dated February 8, 1994 was reviewed for sites listed within one mile of the property being investigated. The NPL sites are those considered by EPA to have the highest priority for cleanup pursuant to EPA's Hazard Ranking System.

There are no NPL sites listed within one mile of the property. The closest site is the Midvale slag located at 7800 South 700 West, greater than 5 miles to the northwest.

2. Federal CERCLA Site List

The EPA Superfund Program (CERCLIS) site listing of January 19, 1994 was examined. This list reports facilities with potential to cause human health or safety problems or significant ecological or environmental damage.

There are no CERCLA sites listed within one-half mile of the site. The closest CERCLA site listed is the Mingo Smelter located at 9000 South and 100 East, approximately 4,000 feet to the west and appears to be downgradient of the study area.

3. Federal RCRA TSD Facility List

The EPA RCRA TSD Master Facility List of February 18, 1994 was reviewed for facilities within one mile of the site. Facilities are listed if they treat, store or dispose of hazardous waste. This list does not infer that the facility has released any hazardous substance to the environment.

There are no RCRA TSD facilities listed within one mile of the site. The closest RCRA TSD facility is Great Western Chemical located at 1979 South 700 West, greater than 8 miles to the northwest.

4. Federal RCRA Generators List

The EPA RCRA Master Facilities List dated January 18, 1994 was reviewed for facilities on and adjacent the property. Facilities are listed if they generate, transport or store hazardous materials. The list does not infer that the facility has released any hazardous substance to the environment.

There is one facility listed adjacent to the property. This facility is the Motsumurri Brothers Farms located at 8915 South 700 East.

5. Federal ERNS List

The EPA ERNS list dated November 19, 1993 was reviewed. The ERNS list is the EPA's Emergency Response Notification System list of reported CERCLA hazardous substance releases or spills in quantities greater than the reportable quantity, as maintained at the National Response Center.

There are no releases or spills listed on the property being investigated. The closest ERNS site is Union Carbide located at 9450 South State Street, where there was a release of ethylene oxide and other oils. This site is located greater than one mile to the southwest and appears to be downgradient of the study area.

6. State Landfill and/or Solid Waste Disposal Site List

The Utah State Solid Waste Landfill Disposal Site list dated September 15, 1993 was reviewed. The closest site is the Trans-Jordan Landfill located at 8030 South 4000 West in West Jordan. This site is located greater than 7 miles to the west.

7. Utah Bureau of Solid and Hazardous Waste Underground Storage Tank (LUST) Sites

The Utah Bureau of Solid and Hazardous Waste LUST list identifies only those facilities that have been reported to the Utah Division of Environmental Response and Remediation (DERR) as potential leaking underground storage tank sites. The list is limited to information in the data base at the time the list was printed.

There are three facilities listed on the LUST list within ½ mile of the property being investigated.

1. Bonneville Equipment Company located at 8489 South 700 East, greater than 2000 feet to the northwest and likely downgradient.
2. Minit-Lube No. 1005 located at 9235 South 700 East, approximately 1,500 feet to the southwest (not upgradient).
3. Pyramid Oil Company located at 8996 South 700 East, approximately 300 feet to the west (not upgradient).

8. Underground Storage Tank (UST) Sites

There are no UST sites on or adjoining the property. The closest UST site is the 7-Eleven located at 9015 South 700 East, approximately 200 feet to the southwest (not upgradient).

INTERVIEWS WITH OCCUPANTS, OWNERS AND GOVERNMENT OFFICIALS

Interviews were conducted in order to obtain information indicating recognized environmental conditions in connection with the property.

Daniel Olabarri, son of Carilo Olabarri, who owned most of the north portion of the property since 1969 said that the property was farmed prior to their purchase and that they had horses on site. He said that they had an old horse shed with a coral for horses during the 1970's. He said that the site received fill from excavations for the Harvest Lane condominiums constructed in the mid-1980's. The fill consisted of topsoil and material excavated from basements. He stated that the concrete on-site came from the basements that had to be removed and replaced due to poor construction. He stated that the fill on-site came only from condominium construction. He mentioned that a soil investigation had been performed in the area of the fill. He stated that he was unaware of any incident on or adjacent the site that would be of environmental concern.

Tom Motsumurri, who co-owned the central portion of the site from 1961 to the late 1980's, stated that the property was used for farming. He stated that the fill in the north portion of the property was from condominium construction. He stated that he was unaware of any incident on or adjacent the site that would be of environmental concern.

A. Kenneth Pearson, son of Kenneth A. Pearson, owner of the south portion of the site since 1939, said that the site was used for agricultural purposes and that there were orchards on-site and that they grew sugar beets and strawberries. He said that the equipment on the east side was old farm equipment. He stated that he was unaware of any incident on or adjacent the site that would be of environmental concern.

Mike Wilson, Sandy City Water Department, said that the irrigation water on-site came from the Sandy Irrigation ditch which receives its water from Little Cottonwood Creek. He said that Little Cottonwood Creek would be the source for irrigation water through the summer until flows from the creek are inadequate. Then, the water would come from the Sandy Irrigation Canal. He stated that the canal derives its water from the East Jordan Canal. Water is pumped into the canal from the Jordan River which receives its water from Utah Lake. He said that the irrigation system also receives water from storm runoff. He stated that the canal and irrigation ditch do not cross through or near any known environmentally hazardous sites upstream of the study area.

Dave Meldrum, Fire Marshall for Sandy City, was interviewed. He was asked if he was aware of any information about the property that would be of concern involving health or potential hazard. He stated that he was unaware of any incident on or around the site that would be of environmental concern.

LIMITATIONS

This Phase I Environmental Site Assessment has been prepared in accordance with generally accepted practices in this area for the use of the client. The conclusions of the report are based on the information obtained from a site visit, a review of aerial photographs of various dates, a review of government records and interviews with past owners, property residents and governmental agencies contacted.

Applied Geotechnical Engineering Consultants, Inc. does not represent that the site contains no hazardous materials or other latent conditions beyond that observed during the site assessment.

APPLIED GEOTECHNICAL ENGINEERING CONSULTANTS, INC.

Robb E. Edgar

Robb E. Edgar
Staff Engineer

Douglas R. Hawkes

Reviewed by Douglas R. Hawkes, P.E., P.G.

REE/cs

REFERENCES

Utah Department of Environmental Quality, Division of Environmental Response and Remediation, CERCLIS Site Listing, printed January 19, 1994.

Utah Department of Environmental Quality, Division of Environmental Response and Remediation, Underground Storage Tank (UST) Site Listing, printed January 27, 1994.

Utah Department of Environmental Quality, Division of Environmental Response and Remediation, Leaking Underground Storage Tank (LUST) Site Listing, printed January 27, 1994.

Utah Department of Environmental Quality, Division of Solid and Hazardous Waste, Telephone Conversation with Paul Zahn, February 24, 1994.

U.S. Department of Agriculture, Aerial Photography of various dates, Aerial Photograph Field Office, Salt Lake City, Utah.

U. S. Geological Survey, Salt Lake City South Quadrangle, Salt Lake County, Utah.

Environmental Protection Agency Region VIII, Emergency Response Notification System (ERNS) list, printed November 19, 1993.

Utah Department of Environmental Quality, Division of Environmental Response and Remediation, Utah National Priorities List (NPL) sites, Printed February 8, 1994.

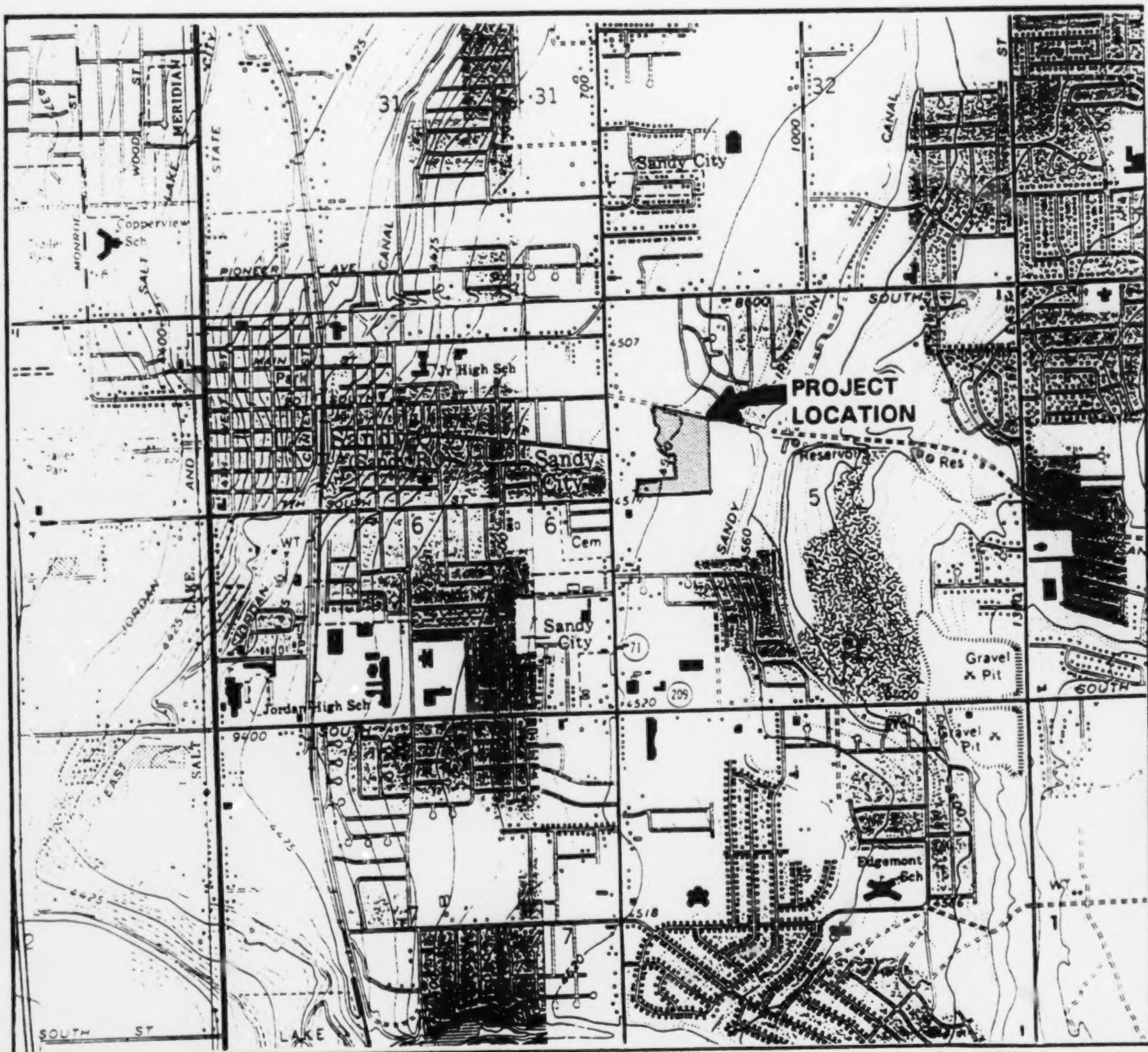
Telephone Conversation, Daniel Olabarri, property owner.

Telephone Conversation, Tom Matsumorri, former property owner.

Telephone Conversation, A. Kenneth Pearson, property owner.

Telephone Conversation, Mike Wilson, Sandy City Water Department.

Telephone Conversation, Dave Meldrum, Sandy City Fire Marshall.


PROJECT LOCATION
Sandy City
Sandy City
Sandy City
Copperview Sch
Jr High Sch
Jordan High Sch
Edgemont Sch
PIONEER AVE
CANAL
STATE
MERIDIAN
SALT LAKE
JORDAN
Reservoir
Res
Cem
Gravel Pit
Gravel Pit
SOUTH
SOUTH ST
LAKE
31
31
32
5
6
6
7
1
4507
4510
4520
4518

Section 5 T3S R1E SLB&M

from USGS Quadrangle
Draper and Midvale, Utah

North

0 2000 4000 feet
Approximate Scale

**PROPERTY NORTHEAST
OF 90TH SOUTH AND 7TH EAST
SANDY, UTAH**

29794	AGEC	Site Vicinity Map	Figure 1

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APPENDIX

PHOTOGRAPHS OF SITE AND WATER RIGHTS POINTS OF DIVERSION

Photograph No 1 from SE Corner looking West

Photograph No. 2 - from SE Corner looking North

Photograph No 3 from NW Corner looking East

Photograph No. 4 - from NW Corner looking South

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                                                  UTAH DIVISION OF WATER RIGHTS
                             WATER RIGHT POINT OF DIVERSION PLOT CREATED MON, JUN  6, 1994,  3:20 PM
                                        PLOT SHOWS LOCATION OF     81 POINTS OF DIVERSION

                                   PLOT OF AN AREA WITH A RADIUS OF      5280 FEET FROM A POINT
                                   N  675 FEET,  E  940 FEET OF THE W4 CORNER,
                                   SECTION  5 TOWNSHIP   3S  RANGE   1E    SL BASE AND MERIDIAN

                                   PLOT SCALE IS APPROXIMATELY  1 INCH =    2000 FEET


                                        N O R T H
                                      ****** ****
                           ********0*           *******1***
                         ***                               ***
                     **** 5 6      7  4              3   2    ****
                  ***              8                              ***
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           *A                                                    B
          *                            D                            C       *
        *     E                                           G     F            *
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      *                                                                         *
                                         H     I                                 *
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  *                           Q   P            O                                    *
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   *                                       edc                                     *
   *                                            f                                  *
    g*                                          h
      *                                        i                                *
        *                                                                      *
         *                                  j     k                           *
          *                           l      m                              *
                                          p    r   n q     s        o      *
             **                                                         **
               ***                            t     u      v         ***
                  ***                 w        x       y          ***
                     ****               z                     ****
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                                      **** ******
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                                   UTAH DIVISION OF WATER RIGHTS
                           NWPLAT     POINT OF DIVERSION LOCATION PROGRAM

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                                                                                                          U A P T S U P R
MAP   WATER               QUANTITY              SOURCE DESCRIPTION or WELL INFO     POINT OF DIVERSION DESCRIPTION    N P E E U G T E
CHAR  RIGHT        CFS    AND/OR   AC-FT    DIAMETER    DEPTH    YEAR LOG  NORTH    EAST     CNR SEC   TWN   RNG B&M  N P R R R W P D
-----------------------------------------------------------------------------------------------------------------------
 0  57 3019      4.8000           .00    16     306  - 1007            N   340  E    82  W4  32    2S    1E  SL      X       X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 06/17/1959
       Salt Lake County Water Conservancy Distr P.O. Box 70                            West Jordan        UT 84084-0070

 1  a17603        .0150           .00    6          236                S  2316  W   159  N4  32    2S    1E  SL    X         X
       WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                                 PRIORITY DATE: 09/28/1993
       Ludwig, Herbert R.                      8164 South 10th East                        Sandy              UT 84070

 2  57 3019      4.8000           .00    16     339  -  878            S  2611  W    78  N4  32    2S    1E  SL      X       X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 06/17/1959
       Salt Lake County Water Conservancy Distr P.O. Box 70                            West Jordan        UT 84084-0070

 3  57 8669       .0150           .00    6          235    1987  Y     N  2665  W   395  S4  32    2S    1E  SL      X       X
       WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                                 PRIORITY DATE: 02/28/1983
       THOMAS, ROBERT D                        944 EAST MARION VILLAGE ROAD                 SANDY             UT 84070

 4  57 8580       .0960           .00 Underground Water Drain          N   000  E   310  W4  32    2S    1E  SL      X       X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 04/02/1981
       Atkinson, Vaughn R.                     8179 South 700 East                          Sandy             UT 84070

 5  57 1535       .0150           .00    3          127    1951  Y     S    25  W  1140  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC                                                      PRIORITY DATE: 10/14/1948
       Burke, Allie H.                         Route #2,  Box #581                          Sandy             UT 84047

 5  57 1831       .0150           .00    3          127    1951  Y     S   104  W  1161  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC                                                      PRIORITY DATE: 08/10/1950
       Dazley, Joseph C.                       Box 581 A                                    Sandy             UT

 6  57 1574       .0150           .00    3          135    1949  Y     S    90  W   895  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC                                                      PRIORITY DATE: 04/21/1949
       Jensen, Joseph                          RD #2 Box 581                                Sandy             UT 84070

 7  57 6306       .0070           .00    36          60          N     S   136  W   146  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC STOCKWATERING                                        PRIORITY DATE: 00/00/1899
       Nelson, James                           RFD #1 Box 254                               Sandy             UT

 8  57 6697       .0110           .00    36          50    1889  N     S   355  W   125  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC STOCKWATERING                                        PRIORITY DATE: 00/00/1889
       Nelson, L.A.                            Box 252 RFD #2                               Sandy             UT

 9  57 5971       .0090           .00    28          55    1931  N     S   720  W    97  E4  31    2S    1E  SL      X       X
       WATER USE(S): DOMESTIC STOCKWATERING                                        PRIORITY DATE: 00/00/1931
       Nelson, James                           R.F.D. #1    Box  #254                       Sandy             UT 84092

 A  57 8104       .5300           .00    6          225    1976  Y     N  1400  W   245  S4  31    2S    1E  SL      X       X
       WATER USE(S): IRRIGATION DOMESTIC                                           PRIORITY DATE: 02/19/1976
       McDonald, Max & Ivan                    800 Ponderosa Drive                          Sandy             UT 84070

 B  57 4435       .3010           .00    96          30    1934  N     N  1384  E   944  S4  32    2S    1E  SL      X       X
       WATER USE(S): IRRIGATION STOCKWATERING                                      PRIORITY DATE: 06/00/1934
       Brady, Kenneth                          RFD#1 Box 281                                Sandy             UT

 C  57 2529      3.0000           .00    24         775    1977  Y     S  1300  W  1340  E4  32    2S    1E  SL      X       X
       WATER USE(S): IRRIGATION DOMESTIC MUNICIPAL OTHER                           PRIORITY DATE: 11/30/1954
       Jordan School District                  9361 South 400 East                          Sandy             UT 84070

 C  57 2990      3.0000           .00    20         775    1977  Y     S  1300  W  1340  E4  32    2S    1E  SL      X       X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 03/18/1959
       Sandy City Corporation                  10000 Centennial Parkway                     Sandy           . UT 84070
```

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                                                UTAH DIVISION OF WATER RIGHTS
                                        NWPLAT    POINT OF DIVERSION LOCATION PROGRAM

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                                                                                                                  U A P T S U P R
MAP  WATER             QUANTITY       SOURCE DESCRIPTION or WELL INFO      POINT OF DIVERSION DESCRIPTION         N P E E U G T E
CHAR RIGHT         CFS  AND/OR  AC-FT DIAMETER       DEPTH    YEAR LOG NORTH        EAST CNR SEC   TWN    RNG B&M N P R R R W P D
---------------------------------------------------------------------------------------------------------------------------------
D  57 2912       .4500             .00     6           400    1960  Y   N  1339  E   372  SW  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION                                                      PRIORITY DATE: 07/14/1958
           Rasmussen, Christine A.                   12470 South Redwood Road                Salt Lake City    UT 84065
           Hofheins, Colleen                                                                                   UT
           Atkinson, Felix E.                                                                                  UT
           Cook, Karen A.                                                                                      UT

E  57 3124       .0743             .00     4           147    1961  Y   N  1086  W  2670  SE  31    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION                                                      PRIORITY DATE: 01/17/1961
           Snarr, Raymond D. & Thora P.              649 North 5th East                      Sandy             UT

F  57 4868       .2500             .00                        1919  N   N  1073  E   825  S4  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION STOCKWATERING                                        PRIORITY DATE: 00/00/1919
           Rasmussen, Calvin S. & Dorothy G.         1818 Mountain View Drive                Salt Lake         UT 84106
           Greenwood, Charles H. & Jean S.           1820 Harrison Avenue                    Salt Lake         UT 84108
           Sagers, Victor G. & Phyllis G.            7321 South State                        Midvale,          UT 84047
           Greenwood, Pearl M. Larson                RFD #1                                  Sandy             UT 84070
           Riska, W. Drew and Ella I.                                                        Roswell           NM

G  57 8153       .0150             .00     6           218    1976  Y   N  1059  E    92  S4  32    2S     1E  SL     X     X
           WATER USE(S): DOMESTIC                                                        PRIORITY DATE: 08/30/1976
           Asay, LaGrande E. and Lucille J.          8439 South 1000 East                    Salt Lake City    UT 84070

G  57 7972       .0450             .00     6           218    1976  Y   N  1059  E    92  S4  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION STOCKWATERING                                        PRIORITY DATE: 04/19/1974
           Asay, LeGrande E. and Lucille J.          8439 South 1000 East                    Salt Lake City    UT 84070

H  57 2470       .0150             .00     3     100 - 350          N   N   320  E   635  SW  32    2S     1E  SL     X     X
           WATER USE(S): DOMESTIC                                                        PRIORITY DATE: 07/14/1954
           Potter, Lillie M.                         2750 Blair Street                       Salt Lake City    UT 84115

I  57 7802       .0640             .00     8           210    1977  Y   N   236  W  1221  S4  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                               PRIORITY DATE: 06/18/1971
           Astle, Lawrence W.                        859 East 8600 South                     Sandy             UT 84070

J  57 5232       .0380             .00                                  N   N    54  W  1336  S4  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION DOMESTIC                                             PRIORITY DATE: 06/00/1921
           Stuart, Rose H.                           274 R1                                  Sandy             UT 84092

K  57 2968       .0150             .00     6           215    1978  Y   N    50  W   286  S4  32    2S     1E  SL     X     X
           WATER USE(S): IRRIGATION DOMESTIC                                             PRIORITY DATE: 12/30/1958
           Larson, Kenneth D.                        963 East 8600 South                     Sandy             UT 84070

L  57 5480       .0560             .00     6            30    1933  Y   S    45  E   295  NW   5    3S     1E  SL     X     X
           WATER USE(S): IRRIGATION DOMESTIC                                             PRIORITY DATE: 07/00/1933
           Larson, Nephi M.                          R.F.D. #1                               Sandy             UT

M  57 2520     10.0000             .00    20           800                  S   200  E   200  NW   4    3S     1E  SL   X       X
           WATER USE(S): MUNICIPAL                                                       PRIORITY DATE: 10/22/1954
           Salt Lake County Water Conservancy Distr P.O. Box 70                              West Jordan       UT 84084-0070

N  57 2893      3.8000             .00    20           904    1967  Y   S   347  E    91  NW   4    3S     1E  SL     X     X
           WATER USE(S): MUNICIPAL                                                       PRIORITY DATE: 05/14/1958
           Salt Lake County Water Conservancy Distr P.O. Box 70                              West Jordan       UT 84084-0070

O  57  901       .5000             .00 Underground Water Drain          S   448  E  1326  NW   5    3S     1E  SL     X     X
           WATER USE(S): IRRIGATION                                                      PRIORITY DATE: 01/08/1945
           Kasuga, Woodrow S.                        R.D. #1                                 Sandy             UT

P  57 8186       .0330             .00     6           220    1977  Y   S   563  W   215  NE   6    3S     1E  SL     X     X
           WATER USE(S): IRRIGATION DOMESTIC                                             PRIORITY DATE: 02/02/1977
           Stevens, Lloyd P.                         8706 South 7th East                     Sandy             UT 84070
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                                                  UTAH DIVISION OF WATER RIGHTS
                                          NWPLAT    POINT OF DIVERSION LOCATION PROGRAM

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                                                                                                              U A P T S U P R
MAP  WATER             QUANTITY          SOURCE DESCRIPTION or WELL INFO   POINT OF DIVERSION DESCRIPTION     N P E E U G T E
CHAR RIGHT       CFS   AND/OR   AC-FT    DIAMETER   DEPTH    YEAR LOG NORTH    EAST   CNR SEC   TWN   RNG B&M N P R R R W P D
-----------------------------------------------------------------------------------------------------------------------------
 Q 57 8506       .4500              .00   20          915             S   570  W  737 NE   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 11/05/1971
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 Q 57 8100      5.0000 OR       1810.00   20          915    1984 Y   S   570  W  737 NE   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 02/11/1976
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 Q 57 2750       .1800              .00   20          915             S   570  W  737 NE   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 11/03/1961
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 Q 57 2742      1.0500              .00   20          915             S   570  W  737 NE   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 11/05/1971
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 R 57 2317      1.0000              .00   16          442         N   S  1260  W  177 N4   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 07/07/1953
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 R 57 2250      2.0000              .00   16          442    1953 Y   S  1260  W  177 N4   6    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 02/13/1953
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070

 S 57 5477       .0890              .00   16           12    1900 Y   S  1634  E 1285 NW   5    3S    1E  SL      X     X
           WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                            PRIORITY DATE: 00/00/1900
           Larson, G. Walter                                                             Firth               ID

 T 57 7609      2.0000              .00   16          792             S  1660  E  340 N4   5    3S    1E  SL  X         X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 12/31/1968
           Midvale City Corporation               12 East Center                         Midvale             UT 84047

 U 57 1398       .1700              .00   12          600    1948 Y   S  1874  E 2198 NW   5    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 12/17/1947
           Midvale City                           Midvale City Hall                      Midvale             UT 84047

 U 57 2251      4.4700              .00   12          600             S  1874  E 2198 NW   5    3S    1E  SL    X       X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 02/13/1953
           Midvale City Corporation                                                      Midvale             UT 84047

 U 57 7609      2.0000              .00   12          600             S  1874  E 2198 NW   5    3S    1E  SL  X         X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 12/31/1968
           Midvale City Corporation               12 East Center                         Midvale             UT 84047

 U a7961        6.6700              .00   12          600             S  1874  E 2198 NW   5    3S    1E  SL    X       X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 07/09/1974
           Midvale City Corporation               80 East Center Street                  Midvale             UT 84047

 V 57 2251      4.4700              .00   18          650    1956 Y   S  1925  E 2540 NW   5    3S    1E  SL    X       X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 02/13/1953
           Midvale City Corporation                                                      Midvale             UT 84047

 V 57 7609      2.0000              .00   18          606    1956 Y   S  1925  E 2540 NW   5    3S    1E  SL  X         X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 12/31/1968
           Midvale City Corporation               12 East Center                         Midvale             UT 84047

 V a7961        6.6700              .00   18          650             S  1925  E 2540 NW   5    3S    1E  SL    X       X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 07/09/1974
           Midvale City Corporation               80 East Center Street                  Midvale             UT 84047

 W 57 2249      3.3300              .00   16          656    1968 Y   N   704  W 1358 E4   5    3S    1E  SL      X     X
           WATER USE(S): MUNICIPAL                                                    PRIORITY DATE: 02/13/1953
           Sandy City Corporation                 10000 Centennial Parkway               Sandy               UT 84070
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BEST COPY AVAILABLE

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                                        UTAH DIVISION OF WATER RIGHTS
                                  NWPLAT    POINT OF DIVERSION LOCATION PROGRAM

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                                                                                                            U A P T S U P R
MAP  WATER              QUANTITY            SOURCE DESCRIPTION or WELL INFO    POINT OF DIVERSION DESCRIPTION    N P E E U G T E
CHAR RIGHT       CFS    AND/OR    AC-FT     DIAMETER    DEPTH    YEAR LOG  NORTH      EAST     CNR SEC   TWN    RNG B&M   N P R R R W P D
--------------------------------------------------------------------------------------------------------------------------------
 X  57 5481      .0890             .00       6          15      1880  N    S  2114  E  1222  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION DOMESTIC                                           PRIORITY DATE: 00/00/1880
       Larson, Nephi M.                           R.F.D. #1                          Sandy                 UT

 Y  57 5822      .2670             .00 Underground Water Drain             S  2200  E  1725  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION STOCKWATERING                                      PRIORITY DATE: 00/00/1934
       Schneiter, George M. & JoAnn D.            8858 South 1240 East               Sandy                 UT 84094

 Z  57 3090      .1790             .00      10         335                  S  2260  E  1328  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION OTHER                                              PRIORITY DATE: 07/26/1960
       Matsumori, Minoru Jim                      8915 South 7th East                Sandy                 UT

 a  a16778       .0000           40.00      18      500 - 700               N    30  W   865  E4   5    3S     1E  SL   X       X
       WATER USE(S): IRRIGATION OTHER                                              PRIORITY DATE: 06/04/1992
       Neff, William H.                           4951 South Cottonwood Lane         Holladay              UT 84117

 b  57 8818     1.5460             .00      20      300 - 700               S   775  W   126  E4   6    3S     1E  SL   X       X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 02/11/1976
       Sandy City Corporation                     10000 Centennial Parkway           Sandy                 UT 84070

 b  57 8093     3.4540             .00      20        1000      1979  Y     S   775  W   126  E4   6    3S     1E  SL     X     X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 02/11/1976
       Sandy City Corporation                     10000 Centennial Parkway           Sandy                 UT 84070

 c  57 3895      .4460             .00      60          16            N     S  3565  E  1300  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 06/00/1933
       Stocking, I. E.                            9146 South 7th East                Sandy                 UT 84070

 d  57 5384      .6680             .00      54          30      1929  N     S  3670  E  1160  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 00/00/1929
       Clayton, A. M. and Bernice T.              RD s Box 259                       Sandy                 UT 84092

 e  57 7594      .0150             .00      36          15            N     N  1569  E   981  SW   5    3S     1E  SL     X     X
       WATER USE(S): STOCKWATERING                                                 PRIORITY DATE: 08/01/1968
       Rich, John E.                              P.O. Box A                         Sandy                 UT 84070

 f  57 5221      .0110             .00       4          16      1928  N     S  3855  E  1430  NW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                             PRIORITY DATE: 00/00/1928
       Bateman, George L.                                                            Sandy                 UT 84092

 g  57 2413     2.0000             .00      16         590                  N  1109  W  1167  S4   6    3S     1E  SL     X     X
       WATER USE(S): MUNICIPAL                                                     PRIORITY DATE: 03/05/1954
       Sandy City Corporation                     10000 Centennial Parkway           Sandy                 UT 84070

 h  57 5220      .1110             .00                          1918  N     N  1106  E  1620  SW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 00/00/1918
       Bateman, George L.                                                            Sandy                 UT 84092

 i  57 1729      .0150             .00       3         189      1950  Y     N   780  E  1420  SW   5    3S     1E  SL     X     X
       WATER USE(S): DOMESTIC                                                      PRIORITY DATE: 03/20/1950
       Mitsunaga, Hiroshi                         3672 South 11th East               Salt Lake City        UT

 j  57 1408      .1900             .00 Underground Water from Drains        N   417  E   975  SW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 01/30/1948
       Malstrom, C.P.                             R.F.D. No 1                        Sandy                 UT
       Malstrom, C.F.                                                                                      UT
       Malstrom, G.L.                                                                                      UT
       Malstrom, A.E.                                                                                      UT

 j  57 3885     1.0030             .00      48          16            N     N   380  E  1040  SW   5    3S     1E  SL     X     X
       WATER USE(S): IRRIGATION                                                    PRIORITY DATE: 04/00/1933
       Malstrom, G. L. and C. F.                  R.F.D. #1,  Box #483               Sandy                 UT 84092
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                                             UTAH DIVISION OF WATER RIGHTS
                                      NWPLAT    POINT OF DIVERSION LOCATION PROGRAM

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                                                                                                          U A P T S U P R
MAP  WATER           QUANTITY          SOURCE DESCRIPTION or WELL INFO  POINT OF DIVERSION DESCRIPTION    N P E E U G T E
CHAR RIGHT      CFS   AND/OR   AC-FT   DIAMETER   DEPTH   YEAR LOG  NORTH    EAST   CNR SEC  TWN  RNG B&M  N P R R R W P D
......................................................................................................................
k  57 6932        .0140           .00    48          18   1920  N  N   295  E 1784 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                          PRIORITY DATE: 00/00/1920
          Jones, Samuel                         RFD #1                               Sandy               UT 84092

l  57 1247        .0150           .00                           N  N   125  E  269 SW   5  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 02/24/1947
          Heinerman, Jennie                     Route No.1 Box 529                   Sandy,              UT

m  57 3877        .1290           .00    52          21         N  S    12  E 1165 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION                                                 PRIORITY DATE: 00/00/1933
          Ahlstrom, Elizabeth J.                Box 482                              Sandy               UT 84070

n  57 2064        .0150           .00     4         214   1951  Y  S    37  E 2009 NW   8  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 12/05/1951
          Webster, Lyle D.                      686 East Center Street               Midvale             UT 84047

n  57 5487        .0160           .00     2          32   1930  N  S    42  E 2001 NW   8  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 00/00/1930
          Hollands, Amelia E.                   907 East Gale Street                 Salt Lake City      UT

n  57 2232       2.7300           .00    16         915   1969  Y  S    47  E 1987 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC MUNICIPAL                              PRIORITY DATE: 12/03/1952
          White City Water Company              999 Galena Drive                     Sandy               UT 84070

n  57 6931        .0440           .00    36          35         Y  S   163  E 1924 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC                                        PRIORITY DATE: 00/00/1932
          Fenstermaker, Charles                 RFD #1                               Sandy               UT 84092

o  57 7402       3.3000           .00 Underground Water Well       S    55  W 1340 NE   8  3S     1E  SL   X       X
          WATER USE(S): MUNICIPAL                                                  PRIORITY DATE: 03/21/1966
          Salt Lake County Water Conservancy Distr P.O. Box 70                       West Jordan         UT 84084-0070

o  57 2231       1.7000           .00    16         531   1954  Y  S    65  W 1362 NE   8  3S     1E  SL     X     X
          WATER USE(S): MUNICIPAL                                                  PRIORITY DATE: 12/03/1952
          Salt Lake County Water Conservancy Distr P.O. Box 70                       West Jordan         UT 84084-0070

p  57 3878        .1110           .00    36          20         N  S    58  E  789 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                          PRIORITY DATE: 00/00/1934
          Ahlstrom, Elizabeth J.                Box 482                              Sandy               UT 84070

q  57 5488        .0160           .00     2          32   1934  N  S    62  E 2267 NW   8  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 09/00/1934
          Hollands, Amelia E.                   907 East Gale STreet                 Salt Lake City      UT

r  57 6928        .0890           .00    36          20         Y  S    81  E 1345 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                          PRIORITY DATE: 00/00/1910
          Orton, Frank C.                       RFD #1                               Sandy               UT 84092

s  57 2037        .0150           .00     4      25  -  200         S   149  W 2384 NE   8  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 10/17/1951
          Davis, Leslie W.                      Box  #527-a                          Sandy               UT 84047

t  57 5288        .1580           .00     4          20   1953  N  S   608  E 1220 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC                                        PRIORITY DATE: 08/00/1933
          Barnett, Fred                         FRD #1                               Sandy               UT 84070

u  57 6929        .0220           .00    36          35   1923  Y  S   627  E 1939 NW   8  3S     1E  SL     X     X
          WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                          PRIORITY DATE: 00/00/1923
          Jackson, Lana and Ellen               RFD #1                               Sandy               UT 84092

v  57 1064        .0150           .00     3      20  -  50          N  S   755  E 2971 NW   8  3S     1E  SL     X     X
          WATER USE(S): DOMESTIC                                                   PRIORITY DATE: 03/07/1946
          Duvegeli, Karl                        P.O. Box #527  RFD #1                Sandy               UT 84070
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                                          UTAH DIVISION OF WATER RIGHTS
                                    NWPLAT    POINT OF DIVERSION LOCATION PROGRAM


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                                                                                                        U A P T S U P R
MAP  WATER            QUANTITY          SOURCE DESCRIPTION or WELL INFO     POINT OF DIVERSION DESCRIPTION     N P E E U G T E
CHAR RIGHT       CFS   AND/OR   AC-FT   DIAMETER   DEPTH    YEAR LOG NORTH     EAST    CNR SEC   TWN   RNG B&M N P R R R W P D
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 w  57 4769     .0560              .00    18          24    1924  N    S   841  E   244  NW   8    3S    1E  SL    X     X
        WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                            PRIORITY DATE: 00/00/1924
        Clark, L. D.                          R.D.#1                                   Sandy             UT

 x  57 3871     .1340              .00    48          20          N    S   909  E  1315  NW   8    3S    1E  SL    X     X
        WATER USE(S): IRRIGATION                                                   PRIORITY DATE: 03/15/1933
        Pollock, Joseph H.                    9541 So. 7th East                        Sandy             UT 84070

 y  57 6984     .0110              .00    33          25    1928  N    S   941  E  2376  NW   8    3S    1E  SL    X     X
        WATER USE(S): IRRIGATION DOMESTIC STOCKWATERING                            PRIORITY DATE: 00/00/1928
        Fenstermaker, Charles                 RD #1                                    Sandy             UT 84092

 z  57 5418     .5790              .00    48          21    1927  N    S  1099  E   540  NW   8    3S    1E  SL    X     X
        WATER USE(S): IRRIGATION                                                   PRIORITY DATE: 00/00/1927
        Clark, Elmer S.                       Sandy R. 1, Box 480                      Sandy             UT

00  57 2478    2.2900              .00    16        1110    1976  Y    S  1660  E    75  NW   8    3S    1E  SL    X     X
        WATER USE(S): IRRIGATION DOMESTIC OTHER                                    PRIORITY DATE: 07/28/1954
        White City Water Company              999 Galena Drive                         Sandy             UT 84070
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Appendix J

Example New School Construction Planning and Coordination Guide

New School Construction Planning and Coordination Guide

To be completed by the local political jurisdiction

School District: ______________________________

Project Name: ______________________________

Project Address: ______________________________

Type of Project: New Building: _______ Addition to: ______________________

Total Footprint of Foundation for Proposed Construction: _______________square feet

Automatic Fire Extinguishing System: _________ Yes _________ No

Type of Construction: _____ Masonry _____Wood Frame _____Stucco
_____ Steel Siding _____ Brick Veneer _____ Concrete

Building Height: _______ feet above grade ________ Stories

This project must be coordinated with the following agencies prior to construction:

Agency	Contact Person	Phone No.	Address	Representing
Planning:				
Zoning:				
Public Works:				
Flood Control:				
Water:				
Sewer:				
Fire Dept:				
UDOT:				
Health Dept:				
Electricity:				
Natural Gas:				
Building:				
FEMA:				
Airport Auth:				
Other:				

To the best of my knowledge, all required approvals are listed above.______________________

Name of Jurisdiction Employee
Title:
Date:

Planning.wpd

Appendix K
Form SP-4
Preliminary Information on Proposed School Facilities Construction

Form SP-4

SOE 06-2530-65
Revised: 29-Mar-97

Utah State Office of Education
School Finance and Statistics
250 East 500 South
Salt Lake City, Utah 84111

Preliminary Information on Proposed School Facilities Construction*

1. School Name: ______________________ Grades Housed ________

2. School Address: ______________________

3. School District: ______________________

4. Date: ______________________

5. Type of Project:
   A. Complete New School___ (New location) New Building(s)___ (Existing location) Addition___ Remodel___
   B. Total Square Feet: New________ Remodel________

6. Architect: Firm Name ______________________
   Project Lead Architect ______________________
   Address ______________________
   Telephone ________________ FAX ________________

7. Lead ICBO licensed inspector of record: ______________________

8. Will state building aid be used in financing this construction project?
   Yes ______ No _____ If yes, what type ______________________

9. Preliminary cost estimate? ____________ Estimated Completion Date ________

Please submit to:

Utah State Office of Education
Larry R. Newton, Education Specialist for
Property Tax and School Facilities
250 East 500 South
Salt Lake City, UT 84111-3284

(801) 538-7668, FAX 538-7729 Internet: lnewton@usoe.k12.ut.us

***This completed form must be included with the preliminary drawings or schematics when a facility construction project proposal is initially submitted to the State Office of Education.**

H:\BUILDING\FORMSP-4

Appendix L

Form SP-5

Final Plans Data on Proposed School Plant Construction

Form SP-5
Rev. 4-10-79

SOE 06-2530-66
2/11/86

UTAH STATE OFFICE OF EDUCATION
School Finance & Business
250 East 500 South
Salt Lake City, Utah 84111

FINAL PLANS DATA ON PROPOSED SCHOOL PLANT CONSTRUCTION*

1. SCHOOL NAME: ______
2. SCHOOL LOCATION: ______ 3. GRADES HOUSED: ______
4. SCHOOL DISTRICT: ______
5. ARCHITECT: ______ 6. DATE: ______
7. NATURE OF PROJECT:
   a. Type of Project: New Building ______ Addition ______ Remodeling ______
   b. Gross Area in Sq. Ft.:
      New Building ______ Addition ______ Remodeling ______
   c. Total Area: ______
   d. Number of Stories ______
   e. Type of Structure: Fire Resistive ______ Combustible ______
      Semi-Fire Resistive ______ Mixed ______
8. Scheduled Month and Year of Completion ______
9. Special Instructional Rooms. Total Number of Each Type:

a.	Kindergarten	______	f.	Homemaking	______
b.	Art	______	g.	Music	______
c.	Business Education	______	h.	Science	______
d.	Gymnasium	______	i.	Resource	______
e.	Ind. Arts/Vocational	______	j.	Other (list)	______

10. Regular Elementary Instructional Rooms - Total Number: ______
11. Regular Secondary Instructional Rooms - Total Number: ______
12. Other kinds of support spaces - Total Number of each type:

a.	Administrative Suite	______	g.	Health Suite	______
b.	Auditorium	______	h.	Multi-purpose	______
c.	Cafeteria	______	i.	Media Center/ Library	______
d.	Custodial Office	______	j.	Little Theatre	______
e.	Faculty Room	______	k.	Other (list)	______
f.	Guidance Suite	______			

13. Total Number of Rooms: (9 + 10 + 11 + 12) ______

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For Office Use Only

14. Date Final Plans Signed: ______
15. File Number: ______
16. Actual Bid Costs: ______

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*This completed form must be returned on or before the date final plans are signed in the State Board of Education Office.

Appendix M

Form SP-5a

Architect's and School District's Certifications

Form SP-5a

SOE 06-2530-61
5-14-85

UTAH STATE BOARD OF EDUCATION
SCHOOL FACILITIES
250 East Fifth South Street
Salt Lake City, UT 84111

ARCHITECT'S AND SCHOOL DISTRICT'S CERTIFICATIONS

1. SCHOOL NAME: ______________________________
2. SCHOOL LOCATION: ______________________________
3. ARCHITECT: ______________________________
4. DATE: ______________________________

ARCHITECT'S CERTIFICATION

I certify that, to the best of my knowledge after examination of the plans and specifications. all standards and building code requirements adopted by the State Board of Education have been incorporated into the plans and specifications for the above named project.

____
Contract Architect

SCHOOL DISTRICT'S CERTIFICATION

I certify that the estimated cost of this project exceeds $300,000 and that the school district has made formal value engineering reviews of the plans and specifications.

____
School District's Superintendent